

2010-11 NEW YORK STATE EXECUTIVE BUDGET

**OFFICE OF TAXPAYER ACCOUNTABILITY
INTERAGENCY TASK FORCE ELIMINATION
ARTICLE VII LEGISLATION**

STATE OF NEW YORK

S. 6613

A. 9713

SENATE - ASSEMBLY

January 19, 2010

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the mental hygiene law, in relation to the advisory council on alcoholism and substance abuse services; to amend the social services law, in relation to the William B. Hoyt Memorial children and family trust fund and the awarding of grants; to amend the state finance law, in relation to the state procurement council; to amend the social services law, in relation to the advisory committee on legal advocacy; to amend the social services law, in relation to the coordinated children's services for children with cross-system needs; to amend chapter 74 of the laws of 2007 amending the penal law and other laws relating to human trafficking, in relation to the effectiveness of certain provisions thereof; to amend chapter 884 of the laws of 1982 relating to requiring the governor to submit to the legislature detailed reports for each federal block grant, in relation to exempting the establishment of certain advisory councils; to amend the executive law, in relation to the advisory council on interactive media and youth violence; to amend chapter 178 of the laws of 2006 relating to establishing an advisory council on children's environmental health and safety, in relation to the effectiveness thereof; to amend the public health law, in relation to medical record access review committees; to amend chapter 521 of the laws of 1994 amending the public health law relating to immunizations for vaccine-preventable diseases, in relation to the effectiveness of certain provisions thereof; to amend the public health law, in relation to the commissioner's powers to promulgate rules and regulations pertaining to the practice of radiologic technology; to amend chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, in relation to the effectiveness of certain provisions thereof; to amend chapter 356 of the laws of 2005 amending the public health law relating to establishing the New York state toxic mold task force, in relation to the effectiveness

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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thereof; to amend the public health law, in relation to the state council on home care services; to amend the public health law, in relation to the powers and duties of the tick-borne disease institute; to amend the environmental conservation law, in relation to authority of the department of environmental conservation to issue falconry licenses; to amend the environmental conservation law, in relation to making conforming technical changes; to amend the environmental conservation law, in relation to review of certain actions involving freshwater wetlands; to amend the highway law, in relation to the New York state scenic byways program; to amend the state finance law, in relation to the marine and coastal district of New York conservation, education, and research fund; to amend the vehicle and traffic law, in relation to the use of funds from the issuance of distinctive marine and coastal district of New York license plates; to amend the environmental conservation law, the state finance law, the agriculture and markets law and the county law, in relation to making technical corrections; to amend the executive law, in relation to specialized hazardous materials emergency response training and firefighting and code enforcement training; to amend the general business law, in relation to the advisory committee on fire alarm systems and making technical amendments thereto; to amend the general business law, in relation to the armored car carrier advisory board; to amend the general business law, in relation to the appearance enhancement industry; to amend the general business law, in relation to the hearing aid dispensing advisory board; to amend the not-for-profit corporation law, in relation to the state cemetery board; to amend the real property law, in relation to the state home inspection council; to amend the real property law, in relation to abolishing the state home inspection council; to amend the executive law and the state finance law, in relation to renaming the New York motor vehicle theft and insurance fraud prevention board to the New York motor vehicle theft and insurance fraud prevention demonstration program; to amend the executive law, in relation to abolishing the state board of real estate appraisal; to amend the labor law, in relation to abolishing the carnival, fair and amusement park safety advisory board; to amend the elder law, in relation to the naturally occurring retirement community supportive service program and replaces the term "elderly" with "older adult"; to repeal section 19.06 of the mental hygiene law relating to the advisory council on underage alcohol consumption; to repeal section 481-d of the social services law relating to William B. Hoyt Memorial children and family trust fund advisory council; to repeal sections 520 and 521 of the executive law relating to boards of visitors and their powers and duties; to repeal section 372-a of the social services law relating to the child welfare research advisory panel; to repeal sections 401 and 402 of the state technology law relating to the statewide wireless network advisory council and its powers and duties; to repeal section 1-t of the legislative law relating to the advisory council on procurement lobbying; to repeal sections 2407 and 2408 of the public health law relating to an advisory council on breast and cervical cancer detection and education; to repeal section 3402 of the public health law relating to the funeral directing advisory board; to repeal section 364-jj of the social services law relating to the special advisory review panel Medicaid managed care; to repeal subdivision 5 of section 2409 of the public health law relating to ovarian cancer information programs; to repeal section 2707 of the public health law relating to the osteoporosis



advisory council; to repeal subdivisions 6 and 7 of section 2807-n of the public health law relating to the New York state palliative care education and training council; to repeal title 1-c of article 24 of the public health law relating to prostate and testicular cancer detection and education; to repeal subdivision 13 of section 3501 of the public health law relating to the definition of board; to repeal section 3503 of the public health law relating to the radiologic technologist advisory board; to repeal title 4 of article 2 of the public health law relating to the spinal cord injury research board; to repeal section 2 of chapter 41 of the laws of 1992 containing health care provider reimbursement rates relating to the work group to review the provision of and payment for certain adult day services; to repeal chapter 554 of the laws of 1996 creating the Brookhaven National Laboratory local oversight and monitoring committee relating thereto; to repeal section 18 of chapter 537 of the laws of 1998 amending the public health law relating to modifying the use of prescription forms for dispensing controlled substances relating to the task force appointed therefore; to repeal subdivision 7 of section 502 of the public health law relating to the environmental laboratories advisory board; to repeal section 123 of chapter 1 of the laws of 1999 enacting the New York Health Care Reform Act of 2000 relating to the commission on financially distressed residential health care facilities; to repeal section 3604 of the public health law relating to the state council on home care services; to repeal subdivision 4 of section 3222 of the public health law relating to the recombinant DNA advisory committee; to repeal section 3702 of the public health law relating to the advisory council on physician's assistants and specialist's assistants; to repeal section 1399-uu of the public health law relating to the technical advisory committee on the regulation of sharps; to repeal sections 2796 and 2799 of the public health law relating to the tick-borne disease institute research council; to repeal section 2799-a of the public health law relating to the tick-borne disease institute advisory council; to repeal section 27-2109 of the environmental conservation law relating to the advisory committee on mercury pollution; to repeal section 11-2003 of the environmental conservation law relating to the New York state bird conservation area program advisory committee; to repeal section 11-1005 of the environmental conservation law relating to the falconry advisory board; to repeal title 11 of article 24 and subdivision 7 of section 24-0107 of the environmental conservation law relating to the freshwater wetlands appeals board; to repeal section 349-cc of the highway law relating to the New York state scenic byways advisory board; to repeal section 13-0503 of the environmental conservation law relating to the marine and coastal district of New York conservation, education, and research board; to repeal certain provisions of the environmental conservation law relating to the New York invasive species advisory committee, the New York state oil, gas and solution mining advisory board, the state petroleum bulk storage advisory council, the regional forest practice boards and the solid waste management board, the state environmental board, the surf clam/ocean quahog management advisory board; to repeal certain provisions of the agriculture and markets law, in relation to the New York state veterinary diagnostic laboratory, the plant industry advisory committee, the apiary industry advisory committee, the advisory council on petroleum product standards, the statewide direct marketing advisory council and the Hudson Valley agricultural advisory council; to repeal chapter 868 of the laws of 1976 establishing the



organic food advisory committee; to repeal section 7 of chapter 654 of the laws of 1994 creating the agricultural transportation review panel; to repeal article 33 of the parks, recreation and historic preservation law relating to the New York state heritage areas advisory council; to repeal certain provisions of the executive law relating to the temporary advisory committee on the restoration and display of New York state's military battle flags; to repeal certain sections of the executive law relating to the fire safety advisory board, arson board, the fire fighting and code enforcement personnel standards and education commission, the emergency services council, the commission rules and regulations promulgated by the governor, the manufactured housing advisory council and the Long Island Sound coastal advisory commission; to repeal certain provisions of the general business law relating to an advisory committee on fire alarm systems, the armored car carrier advisory board; to repeal section 89-mmm and subdivision 5 of section 89-ppp of the general business law relating to the armored car carrier advisory board; to repeal section 403 of the general business law relating to the appearance enhancement industry advisory committee; to repeal section 433-a of the general business law relating to the barbers board; to repeal subdivision 3 of section 789 and section 791 of the general business law relating to the hearing aid dispensing advisory board; to repeal section 1507-a of the not-for-profit corporation law relating to the state cemetery board citizens advisory council; to repeal subdivision 1 of section 444-b of the real property law relating to the state home inspection council; to repeal section 844-a of the executive law relating to the New York statewide law enforcement telecommunications committee; to repeal section 160-c of the executive law relating to the state board of real estate appraisal; to repeal section 870-n of the labor law, in relation to carnival, fair and amusement park safety advisory board; to repeal section 2004-a of the public health law relating to the coordinating council for services related to Alzheimer's disease and other dementia; to repeal section 216 of the elder law relating to the creation of the advisory council to the recreation program for the elderly; to repeal section 120 of the economic development law, in relation to the division of minority and women's business development a minority and women-owned business enterprise advisory board; to repeal article 28 of the executive law, in relation to the upstate and downstate tourism council; to repeal section 26 of chapter 115 of the laws of 2008 amending the racing, pari-mutuel wagering and breeding law and the public officers law relating to the New York city off-track betting corporation; to create a task force on the future of off-track betting in New York state; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto; to amend the public health law, the business corporation law, the county law, the general business law, the general municipal law, the mental hygiene law, the not-for-profit corporation law, the social services law, the town law and the workers' compensation law, in relation to the public health and health planning council

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 19.06 of the mental hygiene law is REPEALED.

1 § 2. Subdivision (c) of section 19.05 of the mental hygiene law, as
2 added by chapter 208 of the laws of 1996, is amended to read as follows:

3 (c) The council shall meet at least [four] two times in each full
4 calendar year. The council shall meet at the request of its chairman or
5 the commissioner.

6 § 3. Section 481-d of the social services law is REPEALED.

7 § 4. The opening paragraph of subdivision 4, subdivision 6 and the
8 opening paragraph of subdivision 8 of section 481-e of the social
9 services law, as amended by chapter 268 of the laws of 1992, are amended
10 to read as follows:

11 The commissioner[, with the advice and recommendations of the William
12 B. Hoyt Memorial children and family trust fund advisory board,] shall
13 issue requests for proposals and specify methods to evaluate the effec-
14 tiveness of proposed programs. Such evaluation shall include but not be
15 limited to the following:

16 6. The commissioner[, with the advice of the William B. Hoyt Memorial
17 children and family trust fund advisory board,] shall publicize the
18 availability of funds to be used for purposes of this section. The
19 commissioner shall request, on prescribed forms, information determined
20 to be necessary and relevant for the evaluation of each application. The
21 commissioner may solicit comments on the applications from concerned
22 individuals and agencies. Applications for local grants shall be submit-
23 ted to the local commissioner of social services and to the local youth
24 bureau in the locality in which the program will operate and applicants
25 for local grants shall solicit comments on the application from such
26 local commissioner of social services and such local youth bureau prior
27 to submitting such application to the commissioner. Applicants shall
28 inform the local commissioner of social services and the local youth
29 bureau that their comments upon the application may be submitted either
30 to the applicant or to the commissioner or to both. The commissioner
31 shall give full consideration to any such comments received within twen-
32 ty-one days after the application deadline and shall review the applica-
33 tions in relation to relevant local plans before approving or disapprov-
34 ing such applications. The commissioner shall inform the local
35 commissioner of social services and the local youth bureau of the final
36 disposition of the applications. No grant award shall be for a period in
37 excess of twelve months unless renewed by the commissioner[, with the
38 advice of the advisory board]. The initial grant and the first year
39 renewal, if any, shall not exceed one hundred percent of the cost of
40 providing the service. The third year grant, if any, shall not exceed
41 seventy-five percent of the initial grant. The fourth year grant and any
42 grant thereafter, if any, shall not exceed fifty percent of the initial
43 grant. No program shall receive funding after the fourth year unless the
44 commissioner, annually, finds that the program effectively prevents
45 family violence or provides a necessary service to victims of family
46 violence.

47 The commissioner [with the advice and recommendations of the William
48 B. Hoyt Memorial children and family trust fund advisory board] shall
49 submit a report prior to the fifteenth day of December beginning in
50 nineteen hundred eighty-five and annually thereafter to the governor and
51 the legislature regarding the implementation and evaluation of the
52 effectiveness of prevention and treatment services related to family
53 violence. [Prior to submitting such reports to the governor and the
54 legislature, the commissioner shall permit the William B. Hoyt Memorial
55 children and family trust fund advisory board to review and comment upon
56 such reports.] Such report shall include:

1 § 5. Sections 520 and 521 of the executive law are REPEALED.

2 § 6. Section 372-a of the social services law is REPEALED.

3 § 7. Sections 401 and 402 of the state technology law are REPEALED.

4 § 8. Section 1-t of the legislative law is REPEALED.

5 § 9. Subdivision 2 of section 161 of the state finance law is amended
6 by adding two new paragraphs n and o and a new subdivision 2-a is added
7 to read as follows:

8 n. provide advice to the commission with respect to the implementation
9 of the provisions of this article as such provisions pertain to procure-
10 ment lobbying.

11 o. annually report to the legislature any problems in the implementa-
12 tion of the provisions of article one-A of the legislative law as such
13 provisions pertain to procurement lobbying, and include in the report
14 any recommended changes to increase the effectiveness of that implemen-
15 tation.

16 2-a. The council may, pursuant to section one hundred thirty-nine-j of
17 the state finance law, establish model guidelines for:

18 a. contacts during the restricted period between designated staff of a
19 state agency, either house of the state legislature, the unified court
20 system, or a municipal agency, as that term is defined in paragraph (ii)
21 of subdivision (s) of section one-c of the legislative law, involved in
22 governmental procurements and officers or employees of offerers, or
23 officers or employees of subcontractors of offerers, who are charged
24 with the performance of functions relating to contracts and who are
25 qualified by education, training or experience to provide technical
26 services to explain, clarify or demonstrate the qualities, character-
27 istics or advantages of an article of procurement. Such authorized
28 contacts shall: (i) be limited to providing information to staff of a
29 state agency, either house of the state legislature, the unified court
30 system, or a municipal agency, as that term is defined in paragraph (ii)
31 of subdivision (s) of section one-c of the legislative law, to assist
32 them in understanding and assessing the qualities, characteristics or
33 anticipated performance of an article of procurement, (ii) not include
34 any recommendations or advocate any contract provisions, and (iii) occur
35 only at such times and in such manner as authorized under the procuring
36 entity's solicitation or guidelines and procedures. For the purposes of
37 this paragraph, the term "technical services" shall be limited to analy-
38 sis directly applying any accounting, engineering, scientific, or other
39 similar technical disciplines;

40 b. contacts between offerers and public officials and officers or
41 employees of the unified court system during the preparation of specifi-
42 cations, bid documents or request for proposals, invitation for bids, or
43 any other method for soliciting a response from offerers for a procure-
44 ment contract prior to the restricted period.

45 § 10. The section heading of section 35 of the social services law, as
46 added by chapter 300 of the laws of 1992, is amended to read as follows:

47 Legal representation of individuals whose federal disability benefits
48 have been denied or may be discontinued[; advisory committee].

49 § 11. Subdivision 1 of section 35 of the social services law, as
50 amended by chapter 300 of the laws of 1992, is amended to read as
51 follows:

52 1. [a. There is hereby established within the department an advisory
53 committee on legal advocacy (hereinafter to be referred to as the "advi-
54 sory committee") which shall consist of nine members or their designated
55 representatives. The advisory committee shall consist of the following
56 nine members: the commissioner of mental health, the commissioner of

1 mental retardation and developmental disabilities, the advocate for the
2 disabled and six members appointed by the governor. The six members
3 appointed by the governor shall include three representatives of inter-
4 ested public and private groups, and shall include three representatives
5 of county government and the city of New York to be appointed from a
6 list of six names submitted by the New York state association of coun-
7 ties. The commissioner shall coordinate the functions and activities of
8 the department with those of the advisory committee.

9 b.] The [advisory committee] commissioner shall make recommendations
10 regarding criteria for selection of grant applications, review applica-
11 tions awarded pursuant to the provisions of this section, [make recom-
12 mendations thereon to the commissioner] and exercise and perform such
13 other [advisory] functions as are related to the purposes of this
14 section[; provided however that the committee shall meet at least once
15 every six months].

16 § 12. Subdivisions 2 and 4 of section 35 of the social services law,
17 subdivision 2 as amended and subdivision 4 as added by chapter 300 of
18 the laws of 1992, are amended to read as follows:

19 2. The commissioner[, after consultation with the advisory committee,]
20 shall make grants, within the amounts appropriated for that purpose, to
21 not-for-profit legal services corporations and not-for-profit agencies
22 serving the disabled and local social services districts, to provide for
23 representation of persons whose federal disability benefits including
24 supplemental security income and social security disability insurance
25 have been denied or may be discontinued for the purpose of representing
26 these persons in appropriate proceedings. When the commissioner has
27 contracted with a local social services district to provide such repre-
28 sentation, the legislative body of such district may authorize and make
29 provision for the commissioner of social services of the district to
30 obtain necessary legal services on a fee for services basis or other
31 appropriate basis which the department may approve. Such legal services
32 may be provided by not-for-profit legal services corporations, not-for-
33 profit agencies serving the disabled or private attorneys.

34 4. Responsibility for local financial participation shall be deter-
35 mined by the commissioner based on either costs of and the number of
36 district residents served by each local entity or the alternative cost
37 allocation procedure deemed appropriate by the commissioner [in consul-
38 tation with the advisory committee].

39 § 13. Intentionally omitted.

40 § 14. Intentionally omitted.

41 § 15. Intentionally omitted.

42 § 16. Section 483-c of the social services law, as added by section 2
43 of part F2 of chapter 62 of the laws of 2003, is amended to read as
44 follows:

45 § 483-c. Coordinated children's services for children with [emotional
46 and/or behavioral disorders] cross-system needs. 1. Purpose. The
47 purpose of this section shall be to [establish] ensure a coordinated
48 system of care for children [with emotional and behavioral disorders]
49 and youth, and their families, who require assistance from multiple
50 agency systems to [appropriately maintain] enable such children and
51 youth to remain with their families, in their communities and in their
52 local school systems, and to thereby reduce inappropriate and costly
53 out-of-home placements. Such integrated system of care shall provide a
54 framework for the effective collaboration among state and local health,
55 mental hygiene, education, child welfare, juvenile justice, probation
56 [of care] and other human services agencies [directed at improving] to

1 improve outcomes for children [with emotional and/or behavioral disor-
2 ders and their families leading to full participation in their communi-
3 ties and schools. This shall include children with co-occurring disor-
4 ders. The absence of coordinated care often results in inappropriate and
5 costly institutional placements and limited community-based services
6 that support maintaining the child in the community] and youth whose
7 significant emotional, developmental, intellectual, physical, social
8 and/or behavioral challenges require the integration of family-centered
9 individualized supports and services across multiple child-serving
10 systems. Such system of care shall be designed to be culturally and
11 linguistically competent at every level of care. [Establishing the] The
12 coordinated children's services initiative statewide is intended to
13 improve the manner in which services of multiple systems are delivered
14 and to eliminate barriers to a coordinated system of care.

15 2. Definitions. As used in this section:

16 (a) "Child [with an emotional and/or behavioral disorder] or youth
17 with cross-system needs" shall mean a person [under eighteen years of
18 age, or a person under twenty-one years of age who has not completed
19 secondary school, who has a mental illness, as defined in subdivision
20 twenty of section 1.03 of the mental hygiene law, or is classified as a
21 student with a disability pursuant to article eighty-nine of the educa-
22 tion law or section 504 of the federal rehabilitation act, or is consid-
23 ered to have a serious emotional or behavioral problem, as considered by
24 a tier I and/or tier II team representative pursuant to this section.
25 Such term shall include children with co-occurring disorders] who has
26 significant emotional, developmental, intellectual, physical, social
27 and/or behavioral challenges that require the integration of family-cen-
28 tered individualized supports and services under the jurisdiction of two
29 or more state departments or agencies.

30 (b) "Individualized family support plan" shall mean a plan developed
31 in conjunction with the family through a strength-based child and family
32 assessment containing a summary of the strengths, needs and goals of a
33 child or youth with [an emotional and/or behavioral disorder] cross-sys-
34 tem needs, and the services and supports agreed to by the child or
35 youth, family and the [tier I] family-based team representatives. Such
36 plan shall be culturally and linguistically competent.

37 (c) "Family" shall mean, when appropriate, a child or youth with [an
38 emotional and/or behavioral disorder] cross-system needs, his or her
39 parents or those in parental relationship to the child or youth, blood
40 relatives and extended family, including non-relatives identified by the
41 child or youth and/or his or her parents or those in a parental
42 relationship to him or her. Nothing in this section shall be construed
43 to deny the child or youth, his or her parents or those persons in
44 parental relationship to [the] such child or youth of any rights [they
45 are] he or she is otherwise entitled to by law.

46 (d) "County" shall mean a county, except in the case of a county that
47 is wholly included within a city, such term shall mean such city.

48 (e) "Family [support] representative" shall mean [a volunteer who is
49 also] a parent [or primary caregiver of] or person in a parental
50 relationship to a child or youth with [an emotional and/or behavioral
51 disorder] cross-system needs. The family [support] representative shall
52 assist families throughout the process of developing and implementing
53 [an] individualized family support [plan] plans as defined in this
54 section.

55 (f) "System of care" shall mean a coordinated network of community-
56 based services and supports that are created by children, youth and

1 families working in partnership with public and private agencies to
2 build on the strengths of individuals and that address each person's
3 cultural and linguistic needs.

4 (g) "Youth representative" shall mean a youth who is currently, or was
5 previously, engaged with one or more child- and family-serving human
6 service systems. The youth representative shall assist youth and fami-
7 lies in the development of individualized family support plans as
8 defined in this section.

9 3. [Interagency] Coordinated children's services initiative structure;
10 roles and responsibilities. (a) [There shall be established a three
11 tiered interagency structure, as follows:

12 (i) State tier III team. There is hereby established a state team
13 designated as the "tier III team", which shall consist of the chair of
14 the council, the commissioners of children and family services, mental
15 health, health, education, alcohol and substance abuse services, and
16 mental retardation and developmental disabilities, and the director of
17 probation and correctional alternatives, or their designated represen-
18 tatives, and representatives of families of children with emotional
19 and/or behavioral disorders. Other representatives may be added at the
20 discretion of such team.

21 (ii) County tier II team. A] The executive director of the council on
22 children and families shall oversee and coordinate the implementation of
23 the coordinated children's services initiative with the commissioner of
24 children and family services, the commissioner of mental health, the
25 commissioner of mental retardation and developmental disabilities, the
26 commissioner of health, the commissioner of education, the commissioner
27 of alcoholism and substance abuse services, the commissioner of tempo-
28 rary and disability assistance, the director of probation and correc-
29 tional alternatives, the chair of the commission on quality of care and
30 advocacy for persons with disabilities, and youth and families repres-
31 enting children with cross-system needs who shall be chosen by the
32 participating state agencies. Under the leadership of the council on
33 children and families, the state level coordinated children's services
34 initiative representatives shall:

35 (i) establish cross-systems priorities;

36 (ii) develop shared principles of operation, including but not limited
37 to a system of care that is culturally and linguistically competent;

38 (iii) address cross-systems barriers; and

39 (iv) develop a reporting mechanism in collaboration with the regional
40 and county teams to track outcomes achieved by the coordinated chil-
41 dren's services initiative.

42 (b) Coordinated children's services regional teams (hereinafter
43 referred to in this section as "regional teams"). Except as provided in
44 paragraph (c) of this subdivision, membership on regional teams shall
45 include regional staff of participating state agencies, as well as fami-
46 ly and youth representatives. The regional teams shall:

47 (i) act as a liaison between the council on children and families and
48 county teams;

49 (ii) assist with the resolution of cross-systems barriers;

50 (iii) provide cross-systems training and technical assistance on a
51 local and regional level; and

52 (iv) promote services that are culturally and linguistically compe-
53 tent.

54 (c) In a city with a population of more than one million persons, the
55 mayor shall establish the regional team for such city. The membership on
56 such team shall include, but not be limited to, the required membership



1 of the regional team, as described in paragraph (b) of this subdivision,
2 and the county team, as described in paragraph (d) of this subdivision.
3 Such team shall have the powers and duties assigned to a regional team
4 and a county team as provided for in this section.

5 (d) Coordinated children's services county teams (hereinafter referred
6 to in this section as "county teams"). With the exception of a city with
7 a population of more than one million, a county, or consortium of coun-
8 ties, choosing to participate in the coordinated children's services
9 initiative shall establish an interagency team consisting of, but not
10 limited to, the local commissioners or leadership assigned by the chief
11 elected official responsible for the local health, mental hygiene, juve-
12 nile justice, probation and other human services systems. The education
13 system shall be represented, at a minimum, by the district superinten-
14 dent of the board of cooperative educational services, or his or her
15 designee, and in the case of the city of New York, by the chancellor of
16 the city school district of the city of New York, or his or her desig-
17 nee, and appropriate local school district representatives as determined
18 by the district superintendent of the board of cooperative educational
19 services or such chancellor. Such team shall [be sensitive to issues of
20 cultural competence, and shall] include representatives of families of
21 children and youth with [an emotional and/or behavioral disorder] cross-
22 system needs. Regional state agency representatives may participate when
23 requested by such team.

24 [(iii) Family-based tier I team. Tier II] County teams shall coordi-
25 nate the coordinated children's services initiative at the local level.
26 Such teams shall:

27 (i) coordinate cross-systems training and provide linkages to other
28 county and school district planning for children;

29 (ii) address local and regional barriers to the coordination of
30 services;

31 (iii) report on state level barriers to the effective delivery of
32 coordinated services;

33 (iv) report on outcomes using the mechanism developed by the council
34 on children and families;

35 (v) implement the goals and principles of the coordinated children's
36 services initiative;

37 (vi) ensure that services are culturally and linguistically competent;
38 and

39 (vii) make monies available consistent with subdivision five of this
40 section.

41 (e) Coordinated children's services family-based teams (hereinafter
42 referred to in this section as "family teams"). County teams, in cooper-
43 ation with a child or youth with [an emotional and/or behavioral disor-
44 der] cross-system needs and his or her family, shall establish intera-
45 gency family-based teams to work with such child or youth and family to
46 develop an individualized, strength-based family support plan and coordi-
47 enate interagency services agreed to in such plan. Such teams shall
48 include such child or youth and family and, based on the needs of the
49 child or youth and family, should also include a family support repre-
50 sentative, representatives from the mental hygiene, education, child
51 welfare, juvenile justice, probation, health, and other county child and
52 family services systems.

53 [(b) Roles and responsibilities of teams. (i) The state tier III team
54 shall coordinate statewide implementation of the coordinated children's
55 services initiative. Such team shall:

1 (A) coordinate planning across the health, mental hygiene, education,
2 juvenile justice, probation and human services systems;

3 (B) address barriers to the effective delivery of local interagency
4 services;

5 (C) coordinate the provision of technical assistance and training for
6 the effective implementation of the coordinated children's services
7 initiative;

8 (D) develop an appropriate reporting mechanism to track the outcomes
9 being achieved. Such mechanism shall be developed in concert with
10 participating counties; and

11 (E) report results and recommendations for change to the governor,
12 legislature and state board of regents, as appropriate.

13 (ii) The tier II teams shall coordinate the coordinated children's
14 services initiative at the local level. Such team shall:

15 (A) coordinate cross-systems training and provide linkages to other
16 county and school district planning for children;

17 (B) address local/regional barriers to the coordination of services;

18 (C) report on state level barriers to the effective delivery of coor-
19 dinated services and recommended changes to the state tier III team;

20 (D) report on outcomes using the mechanism developed by the state tier
21 III team;

22 (E) implement the goals and principles of the coordinated children's
23 services initiative; and

24 (F) make monies available consistent with subdivision five of this
25 section.

26 (iii) Each tier I team shall work collaboratively with the family to
27 develop an individualized family support plan that is:

28 (A) family-focused and family driven;

29 (B) built on child and family strengths; and

30 (C) comprehensive, including appropriate services and supports from
31 appropriate systems and natural supports from the community.] Each fami-
32 ly team shall work collaboratively with the family to develop an indi-
33 vidualized family support plan that is:

34 (i) family focused and family driven;

35 (ii) built on child and family strengths;

36 (iii) culturally and linguistically competent; and

37 (iv) comprehensive, including appropriate services and supports from
38 appropriate systems and natural supports from the community.

39 4. Goals and principles of operation. (a) Goals. The coordinated chil-
40 dren's services initiative shall enable children and youth with
41 [emotional and/or behavioral disorders] cross-system needs, whenever
42 appropriate [for the child and family] to:

43 (i) reside with their families;

44 (ii) live and participate successfully in their communities;

45 (iii) attend and be successful in their local school systems; and

46 (iv) grow towards becoming independent, contributing members of the
47 community.

48 (b) Principles of operation. The [tier III and II teams] coordinated
49 children's services initiative shall provide a system for serving chil-
50 dren and youth with [emotional and/or behavioral disorders] cross-system
51 needs that is:

52 (i) community-based, allowing children and youth and families to
53 receive services close to their home;

54 (ii) culturally and linguistically competent;

55 (iii) individualized and strengths-based in approach;

1 (iv) family friendly, involving the family as full and active partners
2 at every level of decision making, including policy development, plan-
3 ning, treatment and service delivery;

4 (v) comprehensive, involving all appropriate parties, including but
5 not limited to the family, child or youth, youth and family represen-
6 tatives, natural supports, provider agencies and other necessary commu-
7 nity services;

8 (vi) funded through multiple systems with flexible funding mechanisms
9 that support creative approaches;

10 (vii) unconditionally committed to the success of each child or youth;
11 and

12 (viii) accountable with respect to use of agreed on and measured
13 outcomes.

14 5. Funding. Counties and school districts, including boards of cooper-
15 ative educational services as requested by component school districts,
16 choosing to participate in the coordinated children's services initi-
17 ative, unless expressly prohibited by law, shall have the authority to:

18 (a) combine state and federal resources of the participating county
19 and educational agencies to provide services to groups or individual
20 children or youths and their families necessary to maintain children
21 [with emotional and/or behavioral disorders] and youth, who have signif-
22 icant emotional, developmental, intellectual, physical, social and/or
23 behavioral challenges that require the integration of family-centered
24 individualized supports and services across multiple child-serving
25 systems, in their homes, communities and schools, and support families
26 in achieving this goal, as long as the use of the funds is consistent
27 with the purposes for which they were appropriated; and

28 (b) apply flexibility in use of funds, pursuant to an individualized
29 family-support plan, or for collaborative programs, an agreement among
30 the county, city and school districts or the board of cooperative educa-
31 tional services, monies combined pursuant to paragraph (a) of this
32 subdivision may be used to allow flexibility in determining and applying
33 interventions that will address the unique needs of the family. [The
34 tier III team] In accordance with the coordinated children's services
35 initiative, the council on children and families shall develop guide-
36 lines for the flexible use of funds in implementing an individualized
37 family support plan.

38 6. Administration [and reports. The council shall be responsible for
39 the administration of the provisions of this section].

40 (a) [The tier III team shall submit a report to the council detailing
41 the effectiveness in reaching the goals and objectives of the program
42 established by this section. Such report shall include recommendations,
43 based on the experience gained pursuant to the provisions of this arti-
44 cle, for modifying statewide policies, regulations or statutes. The
45 council shall forward such report to the governor, the legislature and
46 the state board of regents on or before the first day of July of each
47 year, including the recommendations of the tier III members regarding
48 the feasibility and implications of implementing the recommendations.

49 (b) The tier III team] In accordance with the coordinated children's
50 services initiative, the council on children and families shall have
51 authority to receive funds and work within agency structures, as agreed
52 to by [member] participating coordinated children's services initiative
53 agencies, to administer funds for the purposes of carrying out its
54 responsibilities.

55 [(c) Parents and representatives of families] (b) Youth and family
56 representatives, who are not compensated for [attendance] participation

1 as part of their employment, shall be compensated for their [tier III
2 team] coordinated children's services initiative participation at the
3 state level and reimbursed for actual expenses, including, but not
4 limited to, child care.

5 7. Confidentiality. (a) Notwithstanding any other provision of state
6 law to the contrary, [tier I, II and III] state agency representatives
7 and regional, county, and family team participants in the coordinated
8 children's services system shall have access to case record and related
9 treatment information as necessary to support the purposes of this
10 section, to the extent permitted by federal law.

11 (b) [Tier I, II and III team] All coordinated children's services
12 participants shall protect the confidentiality of all individual identi-
13 fying case record and related treatment information, and prevent access
14 thereto, by, or the distribution thereof to, other persons not author-
15 ized by State or federal law.

16 § 17. Section 14 of chapter 74 of the laws of 2007, amending the penal
17 law and other laws relating to human trafficking, is amended to read as
18 follows:

19 § 14. This act shall take effect on the first of November next
20 succeeding the date on which it shall have become a law; provided that
21 section 483-ee of the social services law, as added by section eleven of
22 this act, shall take effect immediately and shall remain in full force
23 and effect until [September 1] March 31, 2011 when upon such date the
24 provisions of such section shall expire and be deemed repealed.
25 Provided, effective immediately, the addition, amendment and/or repeal
26 of any rule or regulation necessary for the timely implementation of the
27 provisions of article 10-D of the social services law, as added by
28 section eleven of this act, on its effective date are authorized to be
29 made on or before such effective date.

30 § 18. Section 1 of chapter 884 of the laws of 1982 relating to requir-
31 ing the governor to submit to the legislature detailed reports for each
32 federal block grant, is amended to read as follows:

33 Section 1. Notwithstanding any inconsistent provision of chapter
34 fifty or fifty-three of the laws of nineteen hundred eighty-two, or of
35 any other inconsistent provision of law, the governor shall submit to
36 the legislature detailed reports for each federal block grant. Such
37 reports must be filed prior to submission of applications or plans which
38 are required by the federal government at the inception of block grant
39 funding and at the beginning of each federal fiscal year. Such report
40 must include information concerning anticipated funding levels; state
41 funds required; allocation formula to counties and /or providers; admin-
42 istrative costs; allocation of discretionary funds; allocation among
43 services; transfers between block grants; any eligibility requirements;
44 and, the estimated number of persons to be served. Reports in the second
45 year should include data concerning the prior year's administration of
46 the grant.

47 The governor shall require each executive agency which administers a
48 block grant to establish an advisory council, except that this require-
49 ment shall not apply to the administration of the maternal and child
50 health services block grant authorized by title V of the Social Security
51 Act, the temporary assistance for needy families block grant authorized
52 by part A of title IV of the Social Security Act, and the low-income
53 home energy assistance block grant authorized by subchapter II of chap-
54 ter 94 of title 42 of the United States Code, on and after April 1,
55 2010. Such councils must include representatives from local government,
56 private non-profit providers and the public. One-half of the members

1 shall be appointed by the governor, one-quarter shall be appointed by
2 the temporary president of the senate and one-quarter shall be appointed
3 by the speaker of the assembly. Advisory councils must be consulted in
4 the preparation of reports and in the development of applications and
5 plans for the block grants.

6 § 19. Sections 2407 and 2408 of the public health law are REPEALED.

7 § 20. Intentionally omitted.

8 § 21. Intentionally omitted.

9 § 22. Subdivision 3 of section 554 of the executive law, as added by
10 chapter 299 of the laws of 2008, is amended to read as follows:

11 3. The advisory council shall submit a written report to the governor
12 and legislature on or before December thirty-first, two thousand [nine
13 and annually thereafter, setting] eleven that sets forth the [recommen-
14 dations and] activities and any recommendations of the advisory council
15 on matters within the scope of its powers and duties as set forth in
16 this section[, and describing the progress made regarding policies and
17 priorities for effective intervention, public education and advocacy
18 against youth violence].

19 § 23. Section 3 of chapter 178 of the laws of 2006 relating to estab-
20 lishing an advisory council on children's environmental health and safe-
21 ty, is amended to read as follows:

22 § 3. This act shall take effect on the one hundred eightieth day
23 after it shall have become a law and shall expire and be deemed repealed
24 on March 31, 2013; provided that the commissioners of health, education
25 and environmental conservation are authorized to promulgate any and all
26 rules and regulations and take any other measures necessary to implement
27 this act on its effective date on or before such date.

28 § 24. Intentionally omitted.

29 § 25. Intentionally omitted.

30 § 26. Intentionally omitted.

31 § 27. Section 3402 of the public health law is REPEALED.

32 § 28. Intentionally omitted.

33 § 29. Section 364-jj of the social services law is REPEALED.

34 § 30. Subdivision 4 of section 18 of the public health law, as added
35 by chapter 497 of the laws of 1986, is amended to read as follows:

36 4. Medical record access review committees. The commissioner shall
37 [appoint] designate medical record access review committees to hear
38 appeals of the denial of access to patient information as provided in
39 paragraph (e) of subdivision three of this section. [Members of such
40 committees shall be appointed by the commissioner from a list of nomi-
41 nees submitted by statewide associations of providers in the particular
42 licensed profession involved; provided, however, that, with respect to
43 patient information maintained by a psychiatrist, the list of nominees
44 shall be composed of psychiatrists. In the case of the licensed physi-
45 cians, such association shall be the medical society of the state of New
46 York. Such medical record access review committees shall consist of no
47 less than three nor more than five licensed professionals.] The commis-
48 sioner shall promulgate rules and regulations necessary to effectuate
49 the provisions of this subdivision.

50 § 31. Section 12 of chapter 521 of the laws of 1994 amending the
51 public health law relating to immunizations for vaccine-preventable
52 diseases, as amended by chapter 81 of the laws of 2007, is amended to
53 read as follows:

54 § 12. This act shall take effect immediately; provided however, that
55 sections one, two, three, four, five, six and seven of this act shall
56 apply only to children beginning with their enrollment in the seventh

1 grade in any public, private or parochial intermediate or middle school
2 on or after September 1, 2000, and, to children born on or after January
3 1, 1993, beginning with their enrollment in any public, private or paro-
4 chial kindergarten, elementary, intermediate or secondary school, and,
5 to children born on or after January 1, 1995, beginning with their
6 enrollment in any school, as defined in paragraph a of subdivision 1 of
7 section 2164 of the public health law and section ten of this act shall
8 expire and be deemed repealed April 1, 2010 and section eleven of this
9 act shall expire and be deemed repealed December 31, 2007.

10 § 31-a. Subdivision 5 of section 2409 of the public health law, as
11 added by chapter 300 of the laws of 1995, is REPEALED.

12 § 32. Section 2707 of the public health law is REPEALED.

13 § 33. Subdivisions 6 and 7 of section 2807-n of the public health law
14 are REPEALED.

15 § 34. Subdivisions 1, 2, 3, 4 and 5 of section 2807-n of the public
16 health law, as added by section 63-f of part C of chapter 58 of the laws
17 of 2007, paragraph (b) of subdivision 2 as amended by chapter 409 of the
18 laws of 2007, are amended to read as follows:

19 1. Definitions. The following words or phrases as used in this section
20 shall have the following meanings:

21 (a) "Palliative care" shall mean (i) the active, interdisciplinary
22 care of patients with advanced, life limiting illness, focusing on
23 relief of distressing physical and psychosocial symptoms and meeting
24 spiritual needs. Its goal is achievement of the best quality of life for
25 patients and families as defined by paragraph (b) of subdivision two of
26 section four thousand twelve-b of this chapter; and (ii) it shall also
27 include similar care for patients with chronic or acute pain.

28 (b) "Palliative care certified medical school" shall mean a medical
29 school in the state which is an institution granting a degree of doctor
30 of medicine or doctor of osteopathic medicine in accordance with regu-
31 lations by the commissioner of education under subdivision two of
32 section sixty-five hundred twenty-four of the education law, and which
33 meets standards defined by the commissioner of health[, after consulta-
34 tion with the council,] pursuant to regulations, and used to determine
35 whether a medical school is eligible for funding under this section.

36 (c) "Palliative care certified residency program" shall mean a gradu-
37 ate medical education program in the state which has received accredi-
38 tation from a nationally recognized accreditation body for medical or
39 osteopathic residency programs, and which meets standards defined by the
40 commissioner[, after consultation with the council,] pursuant to regu-
41 lations, and used to determine whether a residency training program is
42 eligible for funding under this section.

43 [(d) "New York state palliative care education and training council"
44 or "council" shall mean the New York state palliative care education and
45 training council established pursuant to subdivision six of this
46 section.]

47 2. Grants for undergraduate medical education in palliative care. (a)
48 The commissioner is authorized, within amounts appropriated for such
49 purpose to make grants to palliative care certified medical schools to
50 enhance the study of palliative care, increase the opportunities for
51 undergraduate medical education in palliative care and encourage the
52 education of physicians in palliative care.

53 (b) Grant proceeds under this subdivision may be used for faculty
54 development in palliative care; recruitment of faculty with expertise in
55 palliative care; costs incurred teaching medical students at hospital-
56 based sites, non-hospital-based ambulatory care settings, palliative

1 care sites, hospices, certified home health agencies, licensed long term
2 home health care programs and AIDS home care programs including, but not
3 limited to, personnel, administration and student-related expenses;
4 expansion or development of programs that train physicians in palliative
5 care; and other innovative programs designed to increase the competency
6 of medical students to provide hospice or palliative care.

7 (c) Grants under this subdivision shall be awarded by the commissioner
8 through a competitive application process [to the council. The council
9 shall make recommendations for funding to the commissioner]. In making
10 awards, consideration shall be given to applicants who:

11 (i) plan to incorporate palliative care longitudinally throughout the
12 medical school curriculum according to professionally recognized stand-
13 ards including, but not limited to, a plan that covers the seven domains
14 identified in the Palliative Education Assessment Tool (PEAT) as devel-
15 oped by the New York Academy of Medicine and the Associated Medical
16 Schools of New York State and Weill Cornell Medical College;

17 (ii) function in collaboration with hospital-based palliative care
18 programs and non-hospital-based sites; and

19 (iii) make complementary efforts to recruit or train qualified faculty
20 in palliative care education.

21 (d) The intent of this subdivision is to augment or increase pallia-
22 tive care undergraduate medical education. Grant funding shall not be
23 used to offset existing expenditures that the medical school has obli-
24 gated or intends to obligate for palliative care education programs.

25 3. Grants for graduate medical education in palliative care. (a) The
26 commissioner is authorized, within amounts appropriated for such purpose
27 to make grants in support of palliative care certified residency educa-
28 tion programs to establish or expand education in palliative care for
29 graduate medical education, and to increase the opportunities for train-
30 ee education in palliative care in hospital-based palliative care
31 programs or non-hospital-based care sites.

32 (b) Grants under this subdivision for graduate medical education and
33 education in palliative care may be used for administration, faculty
34 recruitment and development, start-up costs and costs incurred teaching
35 palliative care in hospital-based palliative care programs or non-hospi-
36 tal-based care sites, including, but not limited to, personnel, adminis-
37 tration and trainee related expenses and other expenses judged reason-
38 able and necessary by the commissioner.

39 (c) Grants under this subdivision shall be awarded by the commissioner
40 through a competitive application process [to the council. The council
41 shall make recommendations for funding to the commissioner]. In making
42 awards, the commissioner shall consider the extent to which the appli-
43 cant:

44 (i) plans to incorporate palliative care longitudinally throughout the
45 residency training program according to professionally recognized stand-
46 ards including, but not limited to, a plan that covers the seven domains
47 identified in the Palliative Education Assessment Tool (PEAT) as devel-
48 oped by the New York Academy of Medicine and the Associated Medical
49 Schools of New York State and Weill Cornell Medical College;

50 (ii) functions in collaboration with hospital-based palliative care
51 programs or non-hospital-based sites, or both; and

52 (iii) makes complementary efforts to recruit or train qualified facul-
53 ty in palliative care education.

54 (d) The intent of this subdivision is to augment or increase training
55 in palliative care during residency. Grant funding shall not be used to

1 offset existing expenditures the institution or program has obligated or
2 intends to obligate for such training programs.

3 4. Centers for palliative care excellence. The commissioner shall
4 designate organizations licensed pursuant to this article and article
5 forty of this chapter, upon successful application, as centers for
6 palliative care excellence. Such designations shall be pursuant to an
7 application [as designed by the department,] and based on service,
8 staffing and other criteria [as] developed by the [council] department.
9 Such centers of excellence shall provide specialized palliative care,
10 treatment, education and related services. Designation as a center for
11 palliative care excellence shall not entitle a center to enhanced
12 reimbursement, but may be utilized in outreach and other promotional
13 activities.

14 5. Palliative care practitioner resource centers. The commissioner[,
15 in consultation with the council,] may designate palliative care practi-
16 tioner resource centers (a "resource center"). A resource center may be
17 statewide or regional, and shall act as a source of technical informa-
18 tion and guidance for practitioners on the latest palliative care strat-
19 egies, therapies and medications. The department[, in consultation with
20 the council,] may contract with not-for-profit organizations or associ-
21 ations to establish and manage resource centers. A resource center may
22 charge a fee to defray the cost of the service.

23 § 35. Title 1-C of article 24 of the public health law is REPEALED.

24 § 36. Subdivision 13 of section 3501 of the public health law is
25 REPEALED.

26 § 37. Section 3503 of the public health law is REPEALED.

27 § 38. Section 3504 of the public health law, as added by chapter 175
28 of the laws of 2006, is amended to read as follows:

29 § 3504. Rules and regulations. The commissioner shall have power to
30 make such rules and regulations, not inconsistent with law, as may be
31 necessary to carry out the provisions of this article, including but not
32 limited to, the availability of emergency equipment appropriate to the
33 provide treatment in the event of an unanticipated reaction to the
34 administration of contrast media. [In promulgating such rules and regu-
35 lations, the commissioner shall act with benefit of advice of the
36 board.]

37 § 39. Subdivision 1 of section 3511 of the public health law, as added
38 by chapter 175 of the laws of 2006, is amended to read as follows:

39 1. Proceedings against any licensee under this section shall be begun
40 by filing with the department a written charge or charges in the form of
41 a petition under oath against such licensee. The charges may be
42 preferred by any person, corporation, association or public officer, or
43 by the department in the first instance. [A copy thereof, together with
44 a report of such investigation as the department shall deem proper,
45 shall be referred to the board for its recommendation to the commission-
46 er.]

47 § 40. Title 4 of article 2 of the public health law is REPEALED.

48 § 41. Section 4 of chapter 387 of the laws of 2004 amending the envi-
49 ronmental conservation law relating to restricting the use of certain
50 flame retardants, is amended to read as follows:

51 § 4. This act shall take effect immediately; provided, however, that
52 sections one and two of this act shall take effect January 1, 2006;
53 provided, however that effective immediately, the addition, amendment
54 and/or repeal of any rule or regulation necessary for the implementation
55 of this act on its effective date is authorized and directed to be made
56 and completed on or before such effective date; and provided, however

1 that section three of this act shall remain in full force and effect
2 until April 1, 2013 when upon such date the provisions of such section
3 shall expire and be deemed repealed.

4 § 42. Intentionally omitted.

5 § 43. Section 3 of chapter 356 of the laws of 2005 amending the public
6 health law relating to establishing the New York state toxic mold task
7 force, is amended to read as follows:

8 § 3. This act shall take effect immediately and shall remain in full
9 force and effect until April 1, 2012 when upon such date the provisions
10 of this act shall expire and be deemed repealed.

11 § 44. Section 2 of chapter 41 of the laws of 1992 containing health
12 care provider reimbursement rates, is REPEALED.

13 § 45. Chapter 554 of the laws of 1996 creating the Brookhaven National
14 Laboratory local oversight and monitoring committee, is REPEALED.

15 § 46. Section 18 of chapter 537 of the laws of 1998 amending the
16 public health law relating to modifying the use of prescription forms
17 for dispensing controlled substances, is REPEALED.

18 § 47. Subdivision 7 of section 502 of the public health law is
19 REPEALED and subdivisions 8, 9 and 10 are renumbered subdivisions 7, 8
20 and 9.

21 § 48. Section 123 of chapter 1 of the laws of 1999 enacting the New
22 York Health Care Reform Act of 2000, is REPEALED.

23 § 49. Section 3604 of the public health law is REPEALED.

24 § 50. Subdivision 9 of section 3607 of the public health law, as
25 amended by chapter 831 of the laws of 1985 and as renumbered by chapter
26 891 of the laws of 1990, is amended to read as follows:

27 9. The commissioner, [after consultation with the state council on
28 home care services,] shall promulgate rules and regulations necessary to
29 administer this section. [The state council on home care services shall
30 advise the department of the availability and quality of home care
31 services and on the methods that may be used to enhance the availabili-
32 ty, appropriate utilization and coordination of home care services
33 through the implementation of the grant program.]

34 § 51. Subdivision 4 of section 3609 of the public health law, as
35 amended by chapter 831 of the laws of 1985, is amended to read as
36 follows:

37 4. The grant applications shall include such information as required
38 by the commissioner[, after consultation with the state council on home
39 care services].

40 § 52. Subdivision 5 of section 3612 of the public health law, as
41 amended by chapter 622 of the laws of 1988, is amended to read as
42 follows:

43 5. The [state hospital review and planning council, by a majority vote
44 of its members,] commissioner shall adopt and amend rules and regu-
45 lations, [subject to the approval of the commissioner,] to effectuate
46 the provisions and purposes of this article with respect to certified
47 home health agencies, providers of long term home health care programs
48 and providers of AIDS home care programs, including, but not limited to,
49 (a) the establishment of requirements for a uniform statewide system of
50 reports and audits relating to the quality of services provided and
51 their utilization and costs; (b) establishment by the department of
52 schedules of rates, payments, reimbursements, grants and other charges;
53 (c) standards and procedures relating to certificates of approval and
54 authorization to provide long term home health care programs and AIDS
55 home care programs; (d) uniform standards for quality of care and
56 services to be provided by certified home health agencies, providers of

1 long term home health care programs and providers of AIDS home care
2 programs; (e) requirements for minimum levels of staffing, taking into
3 consideration the size of the agency, provider of a long term home
4 health care program or provider of an AIDS home care program, the type
5 of care and service provided, and the special needs of the persons
6 served; (f) standards and procedures relating to contractual arrange-
7 ments between home care services agencies; (g) requirements for the
8 establishment of plans for the coordination of home care services and
9 discharge planning for former patients or residents of facilities under
10 the regulatory jurisdiction of the department, the departments of social
11 services or mental hygiene, the board of social welfare, or the office
12 for the aging; (h) requirements for uniform review of the appropriate
13 utilization of services; and (i) requirements for minimum qualifications
14 and standards of training for personnel as appropriate. The commissioner
15 [and the state council on home care services] may propose rules and
16 regulations and amendments thereto [for consideration by the council].

17 § 53. Subdivision 10 of section 3615 of the public health law, as
18 amended by chapter 884 of the laws of 1990, is amended to read as
19 follows:

20 10. The commissioner is authorized to promulgate such rules and regu-
21 lations, [in consultation with the state council on home care services,]
22 as are necessary to carry out the provisions of this section. Such
23 rules and regulations may include, but not be limited to, minimum and
24 maximum grant levels.

25 § 54. Subdivision 4 of section 3222 of the public health law is
26 REPEALED and subdivisions 5, 6, 7, 8 and 9 are renumbered subdivisions
27 4, 5, 6, 7 and 8.

28 § 55. Section 3702 of the public health law is REPEALED.

29 § 56. Section 1399-uu of the public health law is REPEALED.

30 § 57. Section 2796 of the public health law, as added by chapter 550
31 of the laws of 1988, is REPEALED.

32 § 57-a. The opening paragraph of section 2798 of the public health
33 law, as added by chapter 550 of the laws of 1988, is amended to read as
34 follows:

35 The tick-borne disease institute established by section twenty-seven
36 hundred ninety-seven of this article shall have the following powers and
37 duties:

38 § 58. Section 2799-a of the public health law is REPEALED.

39 § 59. Section 2799 of the public health law is REPEALED.

40 § 60. Section 27-2109 of the environmental conservation law is
41 REPEALED.

42 § 61. Section 11-2003 of the environmental conservation law is
43 REPEALED.

44 § 62. Intentionally omitted.

45 § 63. Section 11-1005 of the environmental conservation law is
46 REPEALED.

47 § 64. Section 11-1007 of the environmental conservation law, as
48 amended by chapter 911 of the laws of 1990, is amended to read as
49 follows:

50 § 11-1007. Department authority.

51 The department shall make such rules and regulations governing the
52 issuance and use of falconry licenses as it shall deem proper and neces-
53 sary[, giving due consideration to the recommendations of the falconry
54 advisory board]. The department may fix by regulation special open
55 seasons for the taking of small game or upland game birds by falconry.
56 The department may revoke any falconry license and may seize raptors

1 held pursuant thereto if the licensee (i) fails to provide proper care
2 for the raptors in the licensee's possession, (ii) allows raptors in the
3 licensee's possession to become a public nuisance, (iii) is convicted of
4 or settles by civil compromise any violation of any provision of this
5 chapter or regulation of the department, or (iv) fails to comply with
6 any of the terms or conditions of the falconry license.

7 § 65. Title 11 of article 24 of the environmental conservation law is
8 REPEALED.

9 § 66. Subdivision 7 of section 24-0107 of the environmental conserva-
10 tion law is REPEALED and subdivision 8 is renumbered subdivision 7.

11 § 67. Subdivision 1 of section 24-0301 of the environmental conserva-
12 tion law, as amended by chapter 654 of the laws of 1977, is amended to
13 read as follows:

14 1. The commissioner shall, as soon as practicable, conduct a study to
15 identify and map those individual freshwater wetlands in the state of
16 New York which shall have an area of at least twelve and four-tenths
17 acres or more, or if less than twelve and four-tenths acres, (a) have,
18 in the discretion of the commissioner[, and subject to review of his
19 action by the board created pursuant to title eleven of this article],
20 unusual local importance for one or more of the specific benefits set
21 forth in subdivision seven of section 24-0105 or (b) are located within
22 the Adirondack park and meet the definition of wetlands contained in
23 subdivision sixty-eight of section eight hundred two of article twenty-
24 seven of the executive law, and shall determine their characteristics.
25 This study shall, in addition to such other data as the commissioner may
26 determine to be included, consist of the freshwater wetlands inventory
27 of the department of environmental conservation, currently being made,
28 together with other available data on freshwater wetlands, whether
29 assisted by the state of New York under the tidal wetlands act or other-
30 wise, or assembled by federal or local governmental or private agencies,
31 all of which information shall be assembled and integrated, as applica-
32 ble, into a map of freshwater wetlands of the state of New York. Such
33 study may, in the discretion of the commissioner, be carried out on a
34 sectional or regional basis, as indicated by need, subject to overall
35 completion in an expeditious fashion subject to the terms of this chap-
36 ter. This map, and any orders issued pursuant to the provisions of this
37 article, shall comprise a part of the statewide environmental plan as
38 provided for in section 3-0303 of this chapter. As soon as practicable
39 the commissioner shall file with the secretary of state a detailed
40 description of the technical methods and requirements to be utilized in
41 compiling the inventory, and he shall afford the public an opportunity
42 to submit comments thereon.

43 § 67-a. Any matters pending before the freshwater wetlands appeals
44 board shall be transferred and continued in the department of environ-
45 mental conservation in accordance with article 3 of the state adminis-
46 trative procedure act.

47 § 68. Section 24-0507 of the environmental conservation law, as
48 amended by chapter 654 of the laws of 1977, is amended to read as
49 follows:

50 § 24-0507. Reservation of local jurisdiction.

51 Except as provided in this article, jurisdiction over all areas which
52 would qualify as freshwater wetlands except that they are not designated
53 as such on the freshwater wetlands map pursuant to section 24-0301 of
54 this article because they are less than twelve and four-tenths acres in
55 size and are not of unusual local importance is reserved to the city,
56 town or village in which they are wholly or partially located, and the

1 implementation of this article with respect thereto is the responsibil-
2 ity of said city, town or village, in accordance with section 24-0501
3 and title twenty-three of article seventy-one of this chapter, except
4 that a city, town or village in the exercise of its powers under this
5 section, shall not be subject to the provisions of subdivision four of
6 section 24-0501, subdivisions two and three of section 24-0503, or
7 section 24-0505[, but shall be subject to judicial review under subdivi-
8 sion two of section 24-1105 of this article].

9 § 69. Subdivision 5 of section 24-0703 of the environmental conserva-
10 tion law, as amended by chapter 233 of the laws of 1979, is amended to
11 read as follows:

12 5. Prior to the promulgation of the final freshwater wetlands map in a
13 particular area and the implementation of a freshwater wetlands
14 protection law or ordinance, no person shall conduct, or cause to be
15 conducted, any activity for which a permit is required under section
16 24-0701 of this article on any freshwater wetland unless he has obtained
17 a permit from the commissioner under this section. Any person may
18 inquire of the department as to whether or not a given parcel of land
19 will be designated a freshwater wetland subject to regulation. The
20 department shall give a definite answer in writing within thirty days of
21 such request as to whether such parcel will or will not be so desig-
22 nated. Provided that, in the event that weather or ground conditions
23 prevent the department from making a determination within thirty days,
24 it may extend such period until a determination can be made. Such answer
25 in the affirmative shall be reviewable pursuant to [title eleven of
26 this] article seventy-eight of the civil practice law and rules; such an
27 answer in the negative shall be a complete defense to the enforcement of
28 this article pursuant to article seventy-one of this chapter as to such
29 parcel of land. The commissioner may by regulation adopted after public
30 hearing exempt categories or classes of wetlands or individual wetlands
31 which he determines not to be critical to the furtherance of the poli-
32 cies and purposes of this article.

33 § 70. Subdivision 6 of section 24-0705 of the environmental conserva-
34 tion law, as amended by chapter 654 of the laws of 1977, is amended to
35 read as follows:

36 6. Review of the determination of the local government or of the
37 commissioner shall be, within a period of thirty days after the filing
38 thereof, pursuant to the provisions of [title eleven of this article or]
39 article seventy-eight of the civil practice law and rules. Any owner of
40 the wetland affected and any resident or citizen of the local government
41 shall be deemed to have the requisite standing to seek review.

42 § 71. Subdivision 2 of section 24-0801 of the environmental conserva-
43 tion law, as added by chapter 654 of the laws of 1977, is amended to
44 read as follows:

45 2. Where the activities otherwise subject to regulation under this
46 article involve freshwater wetlands located within the boundaries of the
47 Adirondack park, the inquiries referred to and the applications provided
48 for in section 24-0703 of this article shall be made to and filed with
49 the Adirondack park agency at its headquarters office, under such regu-
50 lations and procedures as the Adirondack park agency may promulgate. The
51 Adirondack park agency shall review the application in place of the
52 commissioner or local government as provided in section 24-0705 of this
53 article, having due regard for the declaration of policy and statement
54 of findings set forth in this article and for the considerations set
55 forth in subdivision one of section 24-0705 of this article. The agency
56 shall in addition determine prior to the granting of any permit that the

1 proposed activity will be consistent with the Adirondack park land use
2 and development plan and would not have an undue adverse impact upon the
3 natural, scenic, aesthetic, ecological, wildlife, historic, recreational
4 or open space resources of the park, taking into account the economic
5 and social or other benefits to be derived from the activity. Any person
6 may seek review of a ruling made solely pursuant to the provisions of
7 this article by the Adirondack park agency pursuant to [the provisions
8 of title eleven of this article or] article seventy-eight of the civil
9 practice law and rules.

10 § 72. Subdivision 7 of section 24-0903 of the environmental conserva-
11 tion law, as added by chapter 614 of the laws of 1975, is amended to
12 read as follows:

13 7. Any person aggrieved by any such order or regulation may seek
14 [review pursuant to the provisions of title eleven of this article or]
15 judicial review pursuant to article seventy-eight of the civil practice
16 law and rules in the supreme court for the county in which the freshwa-
17 ter wetland is located, within thirty days after the date of the filing
18 of the order with the clerk of the county in which the wetland is
19 located.

20 § 73. Section 349-cc of the highway law is REPEALED.

21 § 73-a. Section 349-bb of the highway law, as added by chapter 556 of
22 the laws of 1992, subdivision 3 as amended by section 5 of part Z of
23 chapter 383 of the laws of 2001, is amended to read as follows:

24 § 349-bb. New York state scenic byways program. 1. The commissioner
25 shall establish within the department a program to be known as the New
26 York state scenic byways program (hereinafter referred to as scenic
27 byways program or program) to encourage and coordinate state actions and
28 the activities of others which relate to the development, protection,
29 promotion and management of scenic byways. For the purposes of this
30 article, a "scenic byway" is a transportation route and adjacent area of
31 particular scenic, historic, recreational, cultural or archeological
32 characteristics which is managed to protect such characteristics and to
33 encourage economic development through tourism and recreation.

34 2. To carry out the purposes of the scenic byways program, the commis-
35 sioner is authorized:

36 (a) to plan, design, and develop the New York state scenic byways
37 system;

38 (b) to make safety improvements to a highway designated as a scenic
39 byway under this article to the extent such improvements are necessary
40 to accommodate increased traffic, and changes in the types of vehicles
41 using the highway due to such designation;

42 (c) to construct along the highway facilities for the use of pedestri-
43 ans and bicyclists, rest areas, turnouts, highway shoulder improvements,
44 passing lanes, overlooks, and interpretive facilities;

45 (d) to improve the highway to enhance access to an area for the
46 purpose of recreation, including water-related recreation;

47 (e) to protect historical and cultural resources in areas adjacent to
48 the highway; [and]

49 (f) to develop and provide tourist information to the public, includ-
50 ing interpretive information about the scenic byway; and

51 (g) to evaluate, advise and recommend to the governor and the legisla-
52 ture amendments of the statutes and regulations relevant to the further-
53 ance of a cohesive and coordinated system of scenic byways.

54 [2.] 3. The commissioner is hereby authorized to apply for funding
55 from any appropriate sources to further the purposes of the scenic
56 byways program.

1 [3.] 4. The commissioner is hereby authorized to enter into contracts
2 with qualified, responsible not-for-profit organizations involved in
3 scenic byways activities and the upstate New York tourism council for
4 services relating to the development of the New York state scenic byways
5 program or services relating to the operation, development or promotion
6 of a specific scenic byway.

7 [4.] 5. The commissioner is authorized to promulgate such regulations
8 as may be necessary or desirable to implement the New York state scenic
9 byways program.

10 6. The commissioner shall report to the governor and the legislature
11 by January first of each year on the implementation of this program.

12 § 74. Section 13-0503 of the environmental conservation law is
13 REPEALED.

14 § 75. Subdivisions 3 and 4 of section 95-c of the state finance law,
15 as added by chapter 360 of the laws of 2002, are amended to read as
16 follows:

17 3. Monies of the fund, following appropriation, may be expended only
18 for conservation, research, and education projects relating to the
19 marine and coastal district of New York, as described in section 13-0103
20 of the environmental conservation law ("district"), that are approved by
21 the [marine and coastal district of New York conservation, education,
22 and research board ("board") established pursuant to section 13-0503 of
23 the environmental conservation law] department of environmental conser-
24 vation.

25 4. Monies of the fund shall be payable from the fund on the audit and
26 warrant of the comptroller on vouchers approved or certified by the
27 [chairperson of the board] department of environmental conservation. No
28 money from such fund may be withdrawn, transferred, or used by any
29 person or entity for any purpose other than as permitted by this
30 section.

31 § 76. Subdivision 2 of section 404-t of the vehicle and traffic law,
32 as amended by chapter 577 of the laws of 2007, is amended to read as
33 follows:

34 2. A distinctive plate issued pursuant to this section shall be issued
35 in the same manner as other number plates upon the payment of the regu-
36 lar registration fee prescribed by section four hundred one of this
37 article provided, however, that an additional annual service charge of
38 twenty-five dollars shall be charged for such plate. All monies received
39 for the annual service charge pursuant to this section shall be deposit-
40 ed to the credit of the marine and coastal district of New York conser-
41 vation, education, and research fund established pursuant to section
42 ninety-five-c of the state finance law and shall be used for conserva-
43 tion, education, and research projects approved by the [marine and coas-
44 tal district of New York conservation, education, and research board
45 established] department of environmental conservation pursuant to
46 section [13-0503] 13-0501 of the environmental conservation law.
47 Provided, however, that one year after the effective date of this
48 section, funds in the amount of six thousand dollars, or so much thereof
49 as may be available, shall be allocated from such fund to the department
50 to offset costs associated with the production of such license plates.

51 § 77. Intentionally omitted.

52 § 78. Intentionally omitted.

53 § 79. Intentionally omitted.

54 § 80. Subdivision 1 of section 9-1703 of the environmental conserva-
55 tion law is REPEALED.

1 § 81. Section 9-1707 of the environmental conservation law is
2 REPEALED.

3 § 82. Section 23-0311 of the environmental conservation law is
4 REPEALED.

5 § 83. Section 17-1013 of the environmental conservation law is
6 REPEALED.

7 § 84. Subparagraph (ii) of paragraph d of subdivision 4 of section
8 17-1007 of the environmental conservation law, as added by chapter 334
9 of the laws of 2008, is amended to read as follows:

10 (ii) As promptly as possible thereafter, not to exceed fifteen days,
11 the commissioner shall provide the owner or operator an opportunity to
12 be heard and to present proof that such condition or activity does not
13 violate the provisions of this section or of the rules or regulations
14 adopted pursuant to this title. The commissioner shall adopt rules and
15 regulations describing the procedure to be followed in the prohibition
16 of petroleum deliveries. In adopting such rules and regulations the
17 department shall allow for the owner or operator at any time to submit
18 information to the department to demonstrate that the owner or operator
19 is in compliance with the requirements or has corrected the violation
20 that prompted the department to prohibit deliveries of petroleum and to
21 allow the tank or tanks to be, as promptly as possible, brought back
22 into operation, not to exceed two business days from the department's
23 determination that a tank is in compliance. The department shall use its
24 best efforts to timely determine compliance. [The commissioner shall
25 draft such rules and regulations and submit them to the state petroleum
26 bulk storage advisory council for comments within six months of the
27 effective date of this subparagraph.]

28 § 85. Subdivision 1 of section 17-1009 of the environmental conserva-
29 tion law, as added by chapter 613 of the laws of 1983, is amended to
30 read as follows:

31 1. The department shall [consult with the state petroleum bulk storage
32 advisory council to] compile a list of facilities within the state.
33 Within thirty days of the promulgation of rules and regulations in
34 accordance with section 17-1005, section 17-1007, and this section of
35 this title, the department shall make available, upon request, a copy of
36 such rules and regulations.

37 § 86. Subdivision 1 of section 17-1015 of the environmental conserva-
38 tion law, as amended by chapter 334 of the laws of 2008, is amended to
39 read as follows:

40 1. The department shall, pursuant to section 17-0303 of this article,
41 promulgate rules and regulations establishing standards for existing and
42 new petroleum bulk storage facilities which shall include, but not be
43 limited to, design, equipment requirements, construction, installation
44 and maintenance. In proposing, preparing and compiling such rules and
45 regulations, the department shall consult with the [state petroleum bulk
46 storage code advisory council. In addition, the department shall consult
47 with the] state fire prevention and building code council to assure that
48 such rules and regulations are consistent with the uniform fire
49 prevention and building code.

50 § 87. Section 9-0705 of the environmental conservation law is
51 REPEALED.

52 § 88. Section 9-0707 of the environmental conservation law is
53 REPEALED.

54 § 89. Section 9-0709 of the environmental conservation law is
55 REPEALED.

1 § 90. Section 9-0711 of the environmental conservation law is
2 REPEALED.

3 § 91. Section 9-0713 of the environmental conservation law, as amended
4 by chapter 386 of the laws of 1980, is amended to read as follows:

5 § 9-0713. State assistance.

6 [Upon the establishment of regional forest practice boards, and upon
7 the adoption and promulgation of] The commissioner shall adopt forest
8 practice standards[, the regional forest practice boards]. The depart-
9 ment shall notify [all the] owners of forest land [in their regions]
10 that the commissioner is prepared to assist cooperating owners in
11 connection with the application of [approved] forest practice standards.
12 The commissioner shall provide to cooperating forest and farm woodland
13 owners technical services in connection with all phases of forest
14 management including but not limited to, plantation establishment and
15 care, the marking of timber, marketing assistance and silvicultural
16 treatment of immature stands.

17 § 92. Section 27-0702 of the environmental conservation law is
18 REPEALED.

19 § 93. The opening paragraph of subdivision 2 of section 27-0103 of the
20 environmental conservation law, as amended by chapter 55 of the laws of
21 1992, is amended to read as follows:

22 The commissioner shall[, with the advice of the state solid waste
23 management board established pursuant to section 27-0702 of this arti-
24 cle,] biennially review the status of programs and information contained
25 within the plan and make recommendations for legislation or other state
26 action related to:

27 § 94. Paragraph g of subdivision 3 of section 165 of the state finance
28 law, as amended by chapter 95 of the laws of 2000, is amended to read as
29 follows:

30 g. In addition to carrying out the provisions of paragraphs e and f of
31 this subdivision, the commissioner shall identify and implement specific
32 steps which will reduce, to the maximum extent practicable, waste gener-
33 ated in state facilities and maximize the recovery and reuse of second-
34 ary materials from such facilities. Such steps and their implementation
35 shall be reviewed from time to time but no less frequently than annually
36 or upon receiving recommendations for additional steps from [the solid
37 waste management board,] the department of environmental conservation or
38 the environmental facilities corporation.

39 § 95. Subdivision 3 of section 1-0303 of the environmental conserva-
40 tion law is REPEALED.

41 § 96. Paragraph a of subdivision 2 of section 3-0301 of the environ-
42 mental conservation law, as amended by chapter 469 of the laws of 1974,
43 is amended to read as follows:

44 a. [With the advice and approval of the board, adopt] Adopt, amend or
45 repeal environmental standards, criteria and those rules and regulations
46 having the force and effect of standards and criteria to carry out the
47 purposes and provisions of this act. [Upon approval by the board of any]
48 Any such environmental standard, criterion, rule or regulation or change
49 thereto[, it] shall become effective thirty days after being filed with
50 the Secretary of State for publication in the "Official Compilation of
51 Codes, Rules, and Regulations of the State of New York" published pursu-
52 ant to section 102 of the Executive Law. This provision shall not in any
53 way restrict the commissioner in the exercise of any function, power or
54 duty transferred to him or her and heretofore authorized to be exercised
55 by any other department acting through its commissioner to promulgate,
56 adopt, amend or repeal any standards, rules and regulations. No such

1 environmental [standards] standard, criterion, rule or regulation or
2 change thereto shall be proposed for approval unless a public hearing
3 relating to the subject of such standard shall be held by the commis-
4 sioner prior thereto not less than 30 days after date of notice there-
5 for, any provision of law to the contrary notwithstanding. Notice shall
6 be given by public advertisement of the date, time, place and purpose of
7 such hearing. [Members of the board shall be entitled to participate in
8 such hearing and opportunity to be heard by the commissioner with
9 respect to the subject thereof shall be given to the public.]

10 § 97. Article 5 of the environmental conservation law is REPEALED.

11 § 98. Subdivision 2 of section 17-1411 of the environmental conserva-
12 tion law is REPEALED.

13 § 99. Section 19-0917 of the environmental conservation law is
14 REPEALED.

15 § 100. Subdivision 3 of section 27-0903 of the environmental conserva-
16 tion law, as amended by chapter 831 of the laws of 1990, is amended to
17 read as follows:

18 3. The regulations setting forth the criteria for identification and
19 listing, and the list of, hazardous wastes subject to this title may be
20 amended by the commissioner from time to time as appropriate, based upon
21 hazardous waste conditions of particular relevance to the state. The
22 commissioner may promulgate the appropriately amended regulations only
23 [after approval of the state environmental board based] upon a showing
24 of the circumstances constituting the hazardous waste conditions of
25 particular relevance to this state, and then in a manner consistent with
26 the state administrative procedure act.

27 § 101. Subdivision 1 of section 27-1315 of the environmental conserva-
28 tion law, as amended by section 7 of part E of chapter 1 of the laws of
29 2003, is amended to read as follows:

30 1. The commissioner shall have the power to promulgate rules and regu-
31 lations necessary and appropriate to carry out the purposes of this
32 title. Any [such] regulations shall include provisions which establish
33 the procedures for a hearing pursuant to subdivision four of section
34 27-1313 of this title[. Any such provisions] and shall ensure a division
35 of functions between the commissioner, the staff who present the case,
36 and any hearing officers appointed. In addition, any [such] regulations
37 shall set forth findings to be based on a factual record, which must be
38 made before the commissioner determines that a significant threat to the
39 environment exists. [Rules and regulations promulgated pursuant to this
40 title shall be subject to the approval of a board, which shall be known
41 as the inactive hazardous waste disposal site regulation review board,
42 which shall have the same members, rules, and procedures as the state
43 environmental board.]

44 § 102. Subdivision 4 of section 29-0103 of the environmental conserva-
45 tion law is REPEALED.

46 § 103. Subdivision 4 of section 70-0117 of the environmental conserva-
47 tion law, as added by chapter 723 of the laws of 1977, is amended to
48 read as follows:

49 4. In conjunction with one or more applications for permits, the
50 department may, on request of an applicant undertake a conceptual review
51 of a proposed project evaluating the general approvability or nonapprov-
52 ability of a proposed project, including all proposed phases or segments
53 thereof, subject to the development and submission of more detailed
54 plans and information and such additional applications for permits in
55 the future as may be necessary. The department shall, in rules and regu-
56 lations [approved by the state environmental board], establish criteria

1 and guidelines for the conceptual review of proposed projects. The
2 department shall establish, in rules and regulations adopted pursuant to
3 section 70-0107 of this chapter, procedures governing the conceptual
4 review of proposed projects.

5 § 104. Section 13-0308 of the environmental conservation law is
6 REPEALED.

7 § 105. The opening paragraph of subdivision 15 of section 13-0309 of
8 the environmental conservation law, as added by chapter 512 of the laws
9 of 1994, is amended to read as follows:

10 Unless and until regulations are adopted implementing a comprehensive
11 long-term management plan for the protection of surf clams and ocean
12 quahogs in New York waters [prepared in conjunction with the surf
13 clam/ocean quahog management advisory board pursuant to section 13-0308,
14 of this title], the following restrictions shall apply in addition to
15 any consistent regulations adopted prior to the date upon which such
16 section shall take effect:

17 § 106. Subparagraph (ii) of paragraph 2 and subparagraph (ii) of para-
18 graph 3 of subdivision (a) of section 83 of the state finance law,
19 subparagraph (ii) of paragraph 2 as amended by section 2 of part A of
20 chapter 82 of the laws of 2002 and subparagraph (ii) of paragraph 3 as
21 amended by section 6 of part A of chapter 58 of the laws of 1998, are
22 amended to read as follows:

23 (ii) Notwithstanding the provisions of subparagraph (i) of this para-
24 graph, moneys arising out of the application of subdivision fourteen of
25 section 13-0309 of the environmental conservation law, shall be deposit-
26 ed in a special account within the conservation fund, to be known as the
27 surf clam/ocean quahog account, and shall be available to the department
28 of environmental conservation, including contracts for such purposes
29 with a New York state institution of higher education currently involved
30 in local marine research, after appropriation, for the research and
31 stock assessment of surf clams and ocean quahogs. The department shall,
32 at a minimum, undertake two stock assessments and issue reports detail-
33 ing the findings of such assessments to the governor and legislature.
34 The first stock assessment shall be due no later than December thirty-
35 first, two thousand two. The second stock assessment shall be due no
36 later than December thirty-first, two thousand four[, and shall be
37 conducted in an area to be determined in consultation with the surf
38 clam/ocean quahog management advisory board].

39 (ii) Notwithstanding the provisions of subparagraph (i) of this para-
40 graph, moneys arising out of the application of subdivision fourteen of
41 section 13-0309 of the environmental conservation law, shall be deposit-
42 ed in a special account within the conservation fund, to be known as the
43 surf clam/ocean quahog account, and shall be available to the department
44 of environmental conservation, including contracts for such purposes
45 with a New York State institution of higher education currently involved
46 in local marine research, after appropriation, for the research and
47 stock assessment of surf clams and ocean quahogs [and the operations of
48 the surf clam/ocean quahog management advisory board].

49 § 107. Subdivisions 6, 7, 8 and 9 of section 73-b of the agriculture
50 and markets law are REPEALED and subdivision 10 is renumbered subdivi-
51 sion 6.

52 § 107-a. Paragraphs (c) and (d) of subdivision 5 of section 73-b of
53 the agriculture and markets law, as added by chapter 276 of the laws of
54 2001, are amended and a new paragraph (e) is added to read as follows:

55 (c) make recommendations to the dean regarding appointment of the
56 director of the laboratory; [and]

1 (d) assess the feasibility of the consolidation, expansion and modern-
2 ization of the current physical facilities of the laboratory[.]; and
3 (e) provide advice and recommendations to the director of the diagnos-
4 tic laboratory regarding industry needs and the effectiveness of veteri-
5 nary diagnostic laboratory services.

6 § 108. Section 169-c of the agriculture and markets law is REPEALED.

7 § 109. Section 169-d of the agriculture and markets law is REPEALED.

8 § 110. Subdivision 5 of section 192-a of the agriculture and markets
9 law, as added by chapter 716 of the laws of 1989, is amended to read as
10 follows:

11 5. Concurrent enforcement by municipalities. The provisions of this
12 section and the regulations promulgated thereunder may be enforced
13 concurrently by the director of a municipal consumer affairs office
14 and/or a municipal director of weights and measures, except that nothing
15 in this section or in subdivision three, twelve or nineteen of section
16 one hundred seventy-nine of this article or in section one hundred nine-
17 ty-two-b or one hundred ninety-two-c [or one hundred ninety-two-d] of
18 this article shall be construed to prohibit a political subdivision of
19 the state from also continuing to implement and enforce any local law
20 and regulations that were in effect prior to the date this section took
21 effect, and any subsequent amendments thereto, provided such local law
22 and regulations or amendments thereto are not inconsistent with require-
23 ments imposed by the provisions of this section or by regulations
24 adopted pursuant to this section. Notwithstanding the provisions of
25 section forty-five of this chapter, all moneys collected hereunder at
26 the instance of a municipal enforcement officer shall be retained by the
27 municipality.

28 § 111. Subdivision 10 of section 192-b of the agriculture and markets
29 law, as added by chapter 716 of the laws of 1989, is amended to read as
30 follows:

31 10. The provisions of this section and the regulations promulgated
32 thereunder may be enforced concurrently by the director of a municipal
33 consumer affairs office and/or a municipal director of weights and meas-
34 ures, except that nothing in this section or in subdivision three,
35 twelve or nineteen of section one hundred seventy-nine of this article
36 or in section one hundred ninety-two-a or one hundred ninety-two-c [or
37 one hundred ninety-two-d] of this article shall be construed to prohibit
38 a political subdivision of the state from also continuing to implement
39 and enforce any local law and regulations that were in effect prior to
40 the date this section took effect, and any subsequent amendments there-
41 to, provided such local law and regulations or amendments thereto are
42 not inconsistent with requirements imposed by the provisions of this
43 section or by regulations adopted pursuant to this section. Notwith-
44 standing the provisions of section forty-five of this chapter, all
45 moneys collected hereunder at the instance of a municipal enforcement
46 officer shall be retained by the municipality.

47 § 112. Section 192-d of the agriculture and markets law is REPEALED.

48 § 113. Section 285 of the agriculture and markets law is REPEALED.

49 § 114. Section 285-b of the agriculture and markets law is REPEALED.

50 § 115. Chapter 868 of the laws of 1976 establishing the organic food
51 advisory committee is REPEALED.

52 § 116. Section 7 chapter 654 of the laws of 1994 creating the agricul-
53 tural transportation review panel is REPEALED.

54 § 117. Article 33 of the parks, recreation and historic preservation
55 law is REPEALED.

56 § 118. Section 191 of the executive law is REPEALED.

1 § 119. Subdivision 2 of section 236-b of the county law, as added by
2 chapter 339 of the laws of 2009, is amended to read as follows:

3 2. A local law enacted pursuant to this section establishing county
4 licensure of electrical inspectors shall supersede any provision requir-
5 ing electrical inspectors to also obtain a local license promulgated by
6 a city, town or village in the county pursuant to any general, special
7 or local law. Nothing in this section shall be deemed to supersede any
8 of the powers, functions and duties of the [fire fighting and code
9 enforcement personnel standards and education commission, as set forth
10 in article six-C] office of fire prevention and control, as set forth in
11 section one hundred fifty-eight of the executive law, or any successor
12 entity.

13 § 120. Subdivision 1 of section 156-a of the executive law, as amended
14 by section 1 of part D of chapter 1 of the laws of 2004, is amended to
15 read as follows:

16 1. The state fire administrator shall[, in his or her discretion,
17 consult with the fire fighting and code enforcement personnel standards
18 and education commission established pursuant to section one hundred
19 fifty-nine-a of this article, to] establish a specialized hazardous
20 materials emergency response training program for individuals responsi-
21 ble for providing emergency response recovery following incidents
22 involving hazardous materials as defined in accordance with section
23 fourteen-f of the transportation law. The state fire administrator shall
24 inform all fire companies, municipal corporations and districts, includ-
25 ing agencies and departments thereof and all firefighters, both paid and
26 volunteer, and related officers and employees and police officers of the
27 implementation and availability of the hazardous materials emergency
28 response training program and shall, subject to the availability of an
29 appropriation, conduct such training with sufficient frequency to assure
30 adequate response to incidents involving hazardous materials and
31 protection of responders in all geographic areas of the state.

32 § 120-a. Section 158 of the executive law is REPEALED and a new
33 section 158 is added to read as follows:

34 § 158. Firefighting and code enforcement training. 1. For the purpose
35 of this section, the term fire fighter and code enforcement personnel
36 shall mean a member of a fire department whose duties include fire
37 service as defined in paragraph d of subdivision eleven of section three
38 hundred two of the retirement and social security law or a code enforce-
39 ment officer charged with enforcement of building or fire codes.

40 2. In addition to the functions, powers and duties otherwise provided
41 by this article, the state fire administrator may promulgate rules and
42 regulations with respect to:

43 (a) The approval, or revocation thereof, of fire and code enforcement
44 training programs for fire fighters and code enforcement personnel;

45 (b) Minimum courses of study, attendance requirements, and equipment
46 and facilities to be required for approved fire and code enforcement
47 training programs for fire fighters and code enforcement personnel;

48 (c) Minimum qualifications for instructors for approved fire and code
49 enforcement training programs for fire fighters and code enforcement
50 personnel;

51 (d) The requirements of minimum basic training which fire fighters and
52 code enforcement personnel appointed to probationary terms shall
53 complete before being eligible for permanent appointment, and the time
54 within which such basic training must be completed following such
55 appointment to a probationary term;

1 (e) The requirements of minimum basic training which fire fighters and
2 code enforcement personnel not appointed for probationary terms but
3 appointed on other than a permanent basis shall complete in order to be
4 eligible for continued employment or permanent appointment, and the time
5 within which such basic training must be completed following such
6 appointment on a non-permanent basis;

7 (f) The requirements for in-service training programs designed to
8 assist fire fighters and code enforcement personnel in maintaining
9 skills and being informed of technological advances;

10 (g) Categories or classifications of advanced in-service training
11 programs and minimum courses of study and attendance requirements with
12 respect to such categories or classifications;

13 (h) Exemptions from particular provisions of this article in the case
14 of any county, city, town, village or fire district, if in the opinion
15 of the state fire administrator the standards of fire and code enforce-
16 ment training established and maintained by such county, city, town,
17 village or fire district are equal to or higher than those established
18 pursuant to this article; or revocation in whole or in part of such
19 exemption, if in his or her opinion the standards of fire and code
20 enforcement training established and maintained by such county, city,
21 town, village or fire district are lower than those established pursuant
22 to this article; and

23 (i) Education, health and physical fitness requirements for eligibil-
24 ity of persons for provisional or permanent appointment in the compet-
25 itive class of the civil service as fire fighters and code enforcement
26 personnel as it deems necessary and proper for the efficient performance
27 of such duties;

28 3. In furtherance of his or her functions, powers and duties as set
29 forth in this section, the state fire administrator may:

30 (a) Recommend studies, surveys and reports to be made by the state
31 fire administrator regarding the carrying out of the objectives and
32 purposes of this section;

33 (b) Visit and inspect any fire and code enforcement training programs
34 approved by the state fire administrator or for which application for
35 such approval has been made; and

36 (c) Recommend standards for promotion to supervisory positions.

37 4. In addition to the functions, powers and duties otherwise provided
38 by this section, the state fire administrator shall:

39 (a) Approve fire and code enforcement training programs for fire
40 fighters and code enforcement personnel and issue certificates of
41 approval to such programs, and revoke such approval or certificate;

42 (b) Certify, as qualified, instructors for approved fire and code
43 enforcement training programs for fire fighters and code enforcement
44 personnel and issue appropriate certificates to such instructors;

45 (c) Certify fire fighters and code enforcement personnel who have
46 satisfactorily completed basic training programs and in-service training
47 programs, and issue appropriate certificates to such fire fighters and
48 code enforcement personnel;

49 (d) Cause studies and surveys to be made relating to the establish-
50 ment, operation, effectiveness and approval of fire and code enforcement
51 training programs;

52 (e) Cause studies and surveys to be made relating to the completion or
53 partial completion of training programs by video or computer to the
54 maximum extent practicable; and

55 (f) Consult with and cooperate with the state university of New York
56 and private universities, colleges and institutes in the state for the

1 development of specialized courses of study for fire fighters and code
2 enforcement personnel in fire science, fire administration and code
3 enforcement.

4 § 121. Section 159 of the executive law is REPEALED.

5 § 122. Section 159-a of the executive law is REPEALED.

6 § 123. Section 159-b of the executive law is REPEALED.

7 § 124. Section 159-c of the executive law is REPEALED.

8 § 125. Section 159-d of the executive law is REPEALED.

9 § 126. Section 580 of the executive law is REPEALED.

10 § 127. Subdivision 14 of section 601 of the executive law is REPEALED.

11 § 128. Subdivision 12 of section 604 of the executive law, as added by
12 chapter 729 of the laws of 2005, is amended to read as follows:

13 12. To create and maintain a consumer awareness pamphlet[, in conjunc-
14 tion with the advisory council,] to include, but not be limited to,
15 detailing the certification process, installer selection rights, the
16 dispute resolution process, the differences between the types of hous-
17 ing, and other consumer protection issues. Such pamphlet shall be avail-
18 able to the public, and published on the department's website.

19 § 129. Section 604 of the executive law is amended by adding three new
20 subdivisions 13, 14 and 15 to read as follows:

21 13. To examine consumer protection issues, including but not limited
22 to, manufactured housing financing and sales practices.

23 14. To examine the differences of manufactured and modular housing
24 regulations and make recommendations to the legislature on an annual
25 basis.

26 15. To submit annual reports by December thirty-first, two thousand
27 ten and each year thereafter, to the governor, the temporary president
28 of the senate and the speaker of the assembly that details the recommen-
29 dations of the department regarding manufactured housing in New York
30 state. The department shall, as part of its report, detail the number of
31 complaints received by the department and the number of disputes
32 resolved through the department.

33 § 130. Sections 611 and 612 of the executive law are REPEALED.

34 § 131. Section 923 of the executive law is REPEALED.

35 § 132. Subdivision 6 of section 69-n of the general business law is
36 REPEALED.

37 § 133. Subdivision 5 of section 89-bbb of the general business law is
38 REPEALED and subdivisions 6, 7, 8, 9, 10, 11, 12 and 13 are renumbered
39 subdivisions 5, 6, 7, 8, 9, 10, 11 and 12.

40 § 134. Section 89-lll of the general business law, as added by chapter
41 557 of the laws of 1997, is amended to read as follows:

42 § 89-lll. Regulations. The secretary[, in consultation with the
43 board,] is hereby authorized and empowered to promulgate rules and regu-
44 lations necessary for the proper conduct of the business authorized
45 under this article, and not inconsistent herewith.

46 § 135. Section 89-mmm of the general business law is REPEALED.

47 § 136. Subdivision 5 of section 89-ppp of the general business law is
48 REPEALED and subdivisions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17
49 are renumbered subdivisions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and
50 16.

51 § 137. Subdivision 4 of section 89-sss of the general business law, as
52 added by chapter 557 of the laws of 1997, is amended to read as follows:

53 4. The commissioner[, upon the recommendation and with the general
54 advice of the board,] shall waive the training requirements specified in
55 subdivision one of this section, with respect to applicants employed by
56 armored car carriers, if the applicant provides appropriate documenta-

1 tion to demonstrate that he or she was or is subject to training
2 requirements which meet or exceed the requirements established pursuant
3 to such subdivision.

4 § 138. Section 89-yyy of the general business law, as added by chapter
5 557 of the laws of 1997, is amended to read as follows:

6 § 89-yyy. Regulations. The secretary and commissioner[, in consulta-
7 tion with the board,] are hereby authorized and empowered to promulgate
8 rules and regulations necessary for the proper conduct of the business
9 authorized under this article, and not inconsistent herewith.

10 § 139. Section 403 of the general business law is REPEALED.

11 § 140. Section 404 of the general business law, as amended by chapter
12 341 of the laws of 1998, is amended to read as follows:

13 § 404. Rules and regulations. The secretary shall promulgate rules and
14 regulations which establish standards for practice and operation by
15 licensees under this article in order to ensure the health, safety and
16 welfare of the public. Such rules and regulations shall include, but not
17 be limited to, the sanitary conditions and procedures required to be
18 maintained, a minimum standard of training appropriate to the duties of
19 nail specialists, waxers, natural hair stylists, estheticians, and
20 cosmetologists and the provision of service by nail specialists, waxers,
21 natural hair stylists, estheticians or cosmetologists at remote
22 locations other than the licensee's home provided that such practitioner
23 holds an appearance enhancement business license to operate at a fixed
24 location or is employed by the holder of an appearance enhancement busi-
25 ness license. Regulations setting forth the educational requirements for
26 nail specialists shall include education in the area of causes of
27 infection and bacteriology. In promulgating such rules and regulations
28 the secretary shall consult with the state education department, [the
29 advisory committee established pursuant to this article,] any other
30 state agencies and private industry representatives as may be appropri-
31 ate in determining minimum training requirements.

32 § 141. Section 433-a of the general business law is REPEALED.

33 § 142. Subdivision 3 of section 789 of the general business law is
34 REPEALED and subdivisions 4, 5, 6, 7, 8, 9, 10, 11 and 12 are renumbered
35 subdivisions 3, 4, 5, 6, 7, 8, 9, 10 and 11.

36 § 143. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
37 790 of the general business law, as added by chapter 599 of the laws of
38 1998, is amended to read as follows:

39 (ix) on or after January first, two thousand three, the applicant
40 shall demonstrate the successful completion of post-secondary coursework
41 approved by the secretary [in conjunction with the advisory board]; or

42 § 144. Section 791 of the general business law is REPEALED.

43 § 145. Subdivision 1 of section 794 of the general business law, as
44 amended by chapter 301 of the laws of 2000, is amended to read as
45 follows:

46 1. Prior to the expiration of a certificate of registration and as a
47 condition of renewal, each hearing aid dispenser registered pursuant to
48 subdivision one of section seven hundred ninety of this article shall
49 submit documentation showing successful completion of twenty continuing
50 education credits through a course or courses approved by the secretary
51 [in consultation with the advisory board], or, in relation to audiolo-
52 gists licensed pursuant to article one hundred fifty-nine of the educa-
53 tion law, the office of the professions in the education department.
54 Such formal courses of learning shall include, but not be limited to,
55 collegiate level of credit in non-credit courses, professional develop-
56 ment programs and technical sessions offered by national, state and

1 local professional associations and other organizations acceptable to
2 the secretary and any other organized educational and technical programs
3 acceptable to the secretary. The secretary may, in his or her
4 discretion, and as needed to contribute to the health and welfare of the
5 public, require the completion of continuing education courses in
6 specific subjects to fulfill this mandatory continuing education
7 requirement. Courses shall be taken from a sponsor approved by the
8 secretary pursuant to regulations promulgated pursuant to this section.

9 § 146. Paragraph (a) of subdivision 3 of section 794 of the general
10 business law, as added by chapter 599 of the laws of 1998, is amended to
11 read as follows:

12 (a) Within one year of the effective date of this article, the secre-
13 tary shall promulgate rules and regulations establishing the method,
14 content and supervision requirements for the continuing education course
15 or courses provided for in this section. Properly prepared written mate-
16 rials of the subject matter of each course shall be distributed and each
17 course shall be taught by an instructor who meets requirements estab-
18 lished by the secretary [upon the recommendation of the board]. Any
19 person or organization offering a course shall apply to the secretary
20 for authorization to offer such course or courses pursuant to said rules
21 and regulations.

22 § 147. Subdivision 1 of section 796 of the general business law, as
23 added by chapter 599 of the laws of 1998, is amended to read as follows:

24 1. The secretary[, in consultation with the board,] shall establish a
25 full-time, twelve month training program for those persons wishing to
26 apply for registration as a hearing aid dispenser, except those hearing
27 aid dispensers otherwise licensed pursuant to article one hundred
28 fifty-nine of the education law. For the purposes of this section,
29 "full-time" shall mean seven hours per day for five days a week. Such
30 program shall be conducted by a registered hearing aid dispenser or
31 taught by appropriate faculty with credentials to verify substantial
32 educational knowledge in the topics outlined below. Any trainee entering
33 such a program shall operate under the direct supervision of a regis-
34 tered hearing aid dispenser for the first three months of such program.
35 In addition, during such period, the trainee shall satisfactorily
36 complete a course of instruction, which includes, but is not limited to,
37 the following topics:

- 38 (a) acoustics: general principles.
- 39 (b) acoustics: hearing and speech.
- 40 (c) the human ear.
- 41 (d) disorders of hearing.
- 42 (e) puretone audiometry.
- 43 (f) speech audiometry.
- 44 (g) hearing analysis.
- 45 (h) hearing aids and instruments.

46 § 148. Subdivision 4 of section 798 of the general business law, as
47 added by chapter 599 of the laws of 1998, is amended to read as follows:

48 4. The secretary shall [in consultation with the hearing aid advisory
49 board] prescribe the minimum criteria, procedures and equipment which
50 shall be used in the dispensing of hearing aids, including but not
51 limited to:

- 52 (a) a relevant personal history questionnaire;
- 53 (b) a disclosure statement;
- 54 (c) requirements for a testing room, if applicable;
- 55 (d) requirements for the annual calibration and maintenance of audiom-
56 etric equipment;

1 (e) requirements for out of office dispensing of hearing aids; and
2 (f) if applicable, requirements otherwise provided under article one
3 hundred fifty-nine of the education law.

4 § 149. Subdivisions 2, 4, 5 and 7 of section 803 of the general busi-
5 ness law, as added by chapter 599 of the laws of 1998, are amended to
6 read as follows:

7 2. The secretary shall review implementation of the provisions of this
8 article [in consultation with the board] and shall vigorously and proac-
9 tively ensure the enforcement of its provisions through site visits,
10 regular examination of compliance with this article, public outreach and
11 education, promulgation of regulations, delivery of technical assist-
12 ance, and such other forms as would increase awareness of and adherence
13 to the protections and process prescribed in this article. The secretary
14 shall examine compliance with this article for each business registered
15 pursuant to subdivision one of section seven hundred ninety of this
16 article at least once every four years.

17 4. [In conjunction with the board, the] The secretary shall:

18 (a) develop procedures for promptly investigating all complaints
19 regarding violations of this article;

20 (b) develop procedures for assisting consumers in resolving a dispute
21 with those persons registered pursuant to this article and mediating on
22 behalf of consumers when needed;

23 (c) establish a toll-free number at which consumers, including persons
24 who are hard of hearing or deaf, can register a complaint; and

25 (d) develop other procedures as necessary to increase public awareness
26 of how to properly purchase, fit, adjust and use a hearing aid, as well
27 as the rights of hearing aid consumers pursuant to this article, which
28 shall include the distribution of written information concerning this
29 subject matter and the toll-free number to those subject to this arti-
30 cle, the media, and the general public.

31 5. The secretary[, in conjunction with the board] shall cause to be
32 prepared and distributed printed educational information to registered
33 hearing aid dispensers and others about the general use of hearing aids
34 and assistive listening devices and on the advantages and disadvantages
35 of hearing aids as well as rights and remedies available to the consumer
36 pursuant to this article.

37 7. On or before January thirty-first of each year, the secretary shall
38 develop and distribute a report to the governor, the speaker of the
39 assembly, the temporary president of the senate, the minority leader of
40 the assembly, the minority leader of the senate, the chair of the assem-
41 bly ways and means committee, and the chair of the senate finance
42 committee, and make it available for public examination. Such report
43 shall entail specific efforts made by the secretary[, the board] and
44 hearing aid dispensers to comply with the provisions of this article, a
45 compilation of actions taken [in response to recommendations submitted
46 to the secretary from the board], a summary of the results of compliance
47 efforts and anticipated efforts to improve public education, compliance
48 and enforcement during the subsequent year, as well as recommendations,
49 if any, to amend this article.

50 § 150. Subparagraph 7 of paragraph (h) of section 1507 of the not-for-
51 profit corporation law, as amended by chapter 380 of the laws of 2000,
52 is amended to read as follows:

53 (7) The New York state cemetery board shall promulgate rules defining
54 standards of maintenance, as well as what type of vandalism or out of
55 repair or dilapidated monuments or other markers shall qualify for
56 payment of repair or removal by the fund and the method and amount of

1 payment of contributions described in subparagraph two of this paragraph
2 [upon the recommendation of the state cemetery board citizens advisory
3 council created by section fifteen hundred seven-a of this article
4 (State cemetery board citizens advisory council)].

5 § 151. Section 1507-a of the not-for-profit corporation law is
6 REPEALED.

7 § 152. Subdivision 1 of section 444-b of the real property law is
8 REPEALED and subdivisions 2, 3, 4, 5, 6, 7 and 8 are renumbered subdivi-
9 sions 1, 2, 3, 4, 5, 6 and 7.

10 § 153. Section 444-c of the real property law, as added by chapter 461
11 of the laws of 2004, subdivisions 1, 2 and 3 as amended by chapter 225
12 of the laws of 2005, is amended to read as follows:

13 § 444-c. [State home inspection council] Code of ethics and standards
14 of practice. 1. [There is hereby established a state home inspection
15 council within the department. The council shall consist of the secre-
16 tary or the secretary's designee and six additional members who are
17 residents of the state, of whom three shall be persons licensed and
18 actively engaged in the business of home inspection in the state of New
19 York for at least five years immediately preceding their appointment and
20 three of whom shall be consumers who are the owners and principal resi-
21 dents of a residential building in the state of New York. Appointments
22 shall reflect the geographical diversity of the state.

23 2. For a period of one year after the effective date of this section,
24 and notwithstanding any other provisions of this section to the contra-
25 ry, the first three home inspectors appointed as members of the commit-
26 tee shall not be required, at the time of their first appointment, to be
27 licensed to practice home inspection, provided that such members be
28 licensed pursuant to this article within one year of appointment.

29 3. The governor shall appoint each member of the council for a term of
30 three years except that of the members first appointed, two shall serve
31 for terms of three years, two shall serve for terms of two years and two
32 shall serve for a term of one year. The governor shall appoint one home
33 inspector and one consumer solely in his or her discretion, one home
34 inspector and one consumer upon the recommendation of the temporary
35 president of the senate, and one home inspector and one consumer upon
36 the recommendation of the speaker of the assembly. Each member shall
37 hold office until his or her successor has been qualified. Any vacancy
38 in the membership of the council shall be filled for the unexpired term
39 in the manner provided for the original appointment. No member of the
40 council may serve more than two successive terms in addition to any
41 unexpired term to which he or she has been appointed.

42 4. Members of the council shall receive no compensation but shall be
43 reimbursed for their actual and necessary expenses and provided with
44 office and meeting facilities and personnel required for the proper
45 conduct of the council's business.

46 5. The council shall annually elect from among its members a chair and
47 vice-chair and may appoint a secretary, who need not be a member of the
48 council. The council shall meet at least twice a year and may hold addi-
49 tional meetings as necessary to discharge its duties.

50 6. The role of the council shall be advisory.] The [council shall
51 advise the secretary in the administration and enforcement of the
52 provisions of this article and recommend to the] secretary shall promul-
53 gate regulations to implement the provisions of this article including
54 but not limited to:

55 (a) standards for training including approval of the course of study
56 and examination required for licensure of home inspectors;

1 (b) requirements and standards for continuing education of home
2 inspectors;

3 (c) a code of ethics and standards of practice for licensed home
4 inspectors consistent with the provisions of this article and sound
5 ethical practices which code and standards shall be subject to public
6 notice and comment prior to [a council recommendation to the secretary]
7 adoption of the regulations. The standards of practice shall not require
8 a reporting format or limit information which licensees are authorized
9 to provide a client pursuant to this article; and

10 (d) development of information and educational materials about home
11 inspection for distribution to clients.

12 2. Nothing in this section shall be deemed to supersede any estab-
13 lished authority, duty and power established by local law, state law or
14 regulation or otherwise granted to any agency, body or entity.

15 § 154. Section 444-e of the real property law, as added by chapter 461
16 of the laws of 2004, paragraphs (b) and (c) of subdivision 1 and subdi-
17 vision 3 as amended by chapter 225 of the laws of 2005, is amended to
18 read as follows:

19 § 444-e. Qualifications for licensure. 1. An applicant for a license
20 as a home inspector shall:

21 (a) have successfully completed high school or its equivalent; and

22 (b) (i) have successfully completed a course of study of not less than
23 one hundred forty hours approved by the secretary[, in consultation with
24 the council], of which at least forty hours shall have been in the form
25 of unpaid field based inspections in the presence of and under the
26 direct supervision of a home inspector licensed by the state of New York
27 or a professional engineer or architect regulated by the state of New
28 York who oversees and takes full responsibility for the inspection and
29 any report provided to a client; or

30 (ii) have performed not less than one hundred home inspections in the
31 presence of and under the direct supervision of a home inspector
32 licensed by the state of New York or a professional engineer or archi-
33 tect regulated by the state of New York who oversees and takes full
34 responsibility for the inspection and any report provided to a client;
35 and

36 (c) have passed a written or electronic examination approved by the
37 secretary[, in consultation with the council,] and designed to test
38 competence in home inspection practice as determined by a recognized
39 role definition methodology and developed and administered to the extent
40 practicable in a manner consistent with the American Educational
41 Research Association's "Standards for Educational and Psychological
42 Testing." An applicant who has passed an existing nationally recognized
43 examination, as approved by the secretary, prior to the effective date
44 of this article shall be in compliance with this paragraph; and

45 (d) pay the applicable fees.

46 2. The provisions of this section shall not apply to a person perform-
47 ing a home inspection pursuant to subparagraph (ii) of paragraph (b) of
48 subdivision one of this section for the purpose of meeting requirements
49 for a home inspector license.

50 3. Upon submission of an application and payment of the application
51 and licensure fee to the secretary, the secretary shall issue a home
52 inspector's license to a person who holds a valid license as a home
53 inspector issued by another state or possession of the United States or
54 the District of Columbia which has standards substantially equivalent to
55 those of this state as determined by the secretary[, in consultation
56 with the council].

1 4. On or before the effective date of this article, the secretary
2 shall, upon application, issue a home inspector license to a person who:

3 (a) meets the requirements of paragraphs (a) and (c) of subdivision
4 one of this section and has performed one hundred or more home
5 inspections for compensation within two years prior to the effective
6 date of this section; or

7 (b) meets the requirements of paragraph (a) of subdivision one of this
8 section and has been engaged in the practice of home inspection for
9 compensation for not less than three years prior to the effective date
10 of this section during which such person has performed two hundred fifty
11 home inspections for compensation within three years prior to the effec-
12 tive date of this section; or

13 (c) has education and experience which the secretary[, in consultation
14 with the council,] considers equivalent to that required pursuant to
15 paragraphs (a) and (b) of this subdivision.

16 § 155. Subdivision 1 of section 444-f of the real property law, as
17 amended by chapter 225 of the laws of 2005, is amended to read as
18 follows:

19 1. Home inspector licenses and renewals thereof shall be issued for a
20 period of two years, except that the secretary may, in order to stagger
21 the expiration date thereof, provide that those licenses first issued or
22 renewed after the effective date of this section shall expire or become
23 void on a date fixed by the secretary, not sooner than six months nor
24 later than twenty-nine months after the date of issue. No renewal of a
25 license shall be issued unless the applicant has successfully completed
26 a course of continuing education approved by the secretary[, in consul-
27 tation with the council].

28 § 156. Subdivision 1 of section 444-k of the real property law, as
29 added by chapter 461 of the laws of 2004, is amended to read as follows:

30 1. Every licensed home inspector who is engaged in home inspection
31 shall secure, maintain, and file with the secretary proof of a certifi-
32 cate of liability coverage, which terms and conditions shall be deter-
33 mined by the secretary [in consultation with the council].

34 § 157. Section 444-l of the real property law, as added by chapter 461
35 of the laws of 2004, is amended to read as follows:

36 § 444-l. Duties of the secretary. The secretary shall[, in consulta-
37 tion with the council,] establish such rules and regulations as shall be
38 necessary to implement the provisions of this article.

39 § 158. Intentionally omitted.

40 § 159. Intentionally omitted.

41 § 160. Subdivisions 1 and 5 of section 846-k of the executive law, as
42 added by chapter 170 of the laws of 1994, are amended to read as
43 follows:

44 1. ["Board" means the New York motor vehicle theft and insurance fraud
45 prevention board] "Commissioner" means the commissioner of the division
46 of criminal justice services.

47 5. "Provider agency" means a locality, governmental agency, or not-
48 for-profit organization of any character that provides one or more motor
49 vehicle theft or insurance fraud prevention or driver safety activities
50 in accordance with a plan approved by the [board] commissioner.

51 § 161. Section 846-l of the executive law, as added by chapter 170 of
52 the laws of 1994, subdivision 2 as amended by section 3, paragraph (e)
53 of subdivision 3 as amended by section 4, and paragraph (h) of subdivi-
54 sion 3 as amended by section 5 of part T of chapter 57 of the laws of
55 2000, is amended to read as follows:

1 § 846-1. New York motor vehicle theft and insurance fraud prevention
2 [board] demonstration program. 1. There is hereby created in the divi-
3 sion of criminal justice services the New York motor vehicle theft and
4 insurance fraud prevention [board (hereinafter "board")], which shall
5 consist of the following members:

6 (a) The commissioner of criminal justice services (hereinafter
7 "commissioner"), or his designee, who shall serve as the voting chair-
8 person of the board;

9 (b) Three voting members appointed by the governor on the recommenda-
10 tion of the speaker of the assembly provided, however, that no more than
11 two such appointments made pursuant to this paragraph shall be from the
12 same category of members as provided for in subdivision two of this
13 section.

14 (c) Three voting members appointed by the governor on the recommenda-
15 tion of the temporary president of the senate provided, however, that no
16 more than two such appointments made pursuant to this paragraph shall be
17 from the same category of members as provided for in subdivision two of
18 this section; and

19 (d) Five voting members appointed by the governor provided, however,
20 that no more than two such appointments made pursuant to this paragraph
21 shall be from the same category of members as provided for in subdivi-
22 sion two of this section.

23 2. The members of the board appointed on the recommendation of the
24 speaker of the assembly and the temporary president of the senate, and
25 the members of the board appointed by the governor pursuant to paragraph
26 (d) of subdivision one of this section, shall be representative of
27 consumers of motor vehicle insurance, motor vehicle insurance companies,
28 law enforcement agencies and the judicial system. The appointments shall
29 be made not later than one hundred eighty days after the date on which
30 this section shall have become law. Members of the board who are not
31 public officials shall serve for a term of four years. Members of the
32 board shall serve without compensation, except that members of the board
33 who are not public officials shall be entitled to receive reasonable
34 reimbursement for expenses incurred by them in performance of their
35 duties as members of the board. A majority of the members of the board
36 shall constitute a quorum for the transaction of business at a meeting.
37 Action may be taken by the board at a meeting upon a vote of the majori-
38 ty of its members present. Every member of the board shall be entitled
39 to designate a representative to attend, in his or her place, a meeting
40 of the board and to vote or otherwise act in his or her behalf,
41 provided, however, that a member may not designate such a representative
42 more than once each year. Written notice of such designation shall be
43 furnished to the board by the designating member prior to any meeting
44 attended by his or her representative. Any such representative shall
45 serve at the pleasure of the designating member. No such representative
46 shall be authorized to delegate any of his or her duties or functions to
47 any other person. The board shall meet at least four times each year,
48 and at other times at the call of the chairperson or upon the written
49 request of two-thirds of the members of the board.

50 3. The] demonstration program.

51 2. In furtherance of the program, the commissioner shall[, pursuant to
52 the recommendation of the board,] have the power and duty to:

53 (a) Make, execute, and deliver contracts, conveyances, and other
54 instruments necessary to effect the purposes and objectives of the
55 program;

1 (b) Accept any grant, including federal grants, or any other contrib-
2 utions for the purposes of the program. Any moneys so received shall be
3 expended by the commissioner for the program's purposes, pursuant to
4 appropriation and subject to the applicable provisions of the state
5 finance law;

6 (c) Make grants pursuant to a request for proposals process;

7 (d) Appoint such employees and agents as the commissioner may deem
8 necessary, fix their compensation within the limitations provided by
9 law, and prescribe their duties;

10 (e) Request from the division of state police, from county or municipi-
11 pal police departments and agencies, from the department of insurance,
12 from the department of motor vehicles, from the office of court adminis-
13 tration, from any other state department or agency or public authority,
14 or from any insurer which offers motor vehicle insurance such assistance
15 and data as are useful for the purposes and objectives of the program;

16 (f) Cooperate with and assist political subdivisions of the state in
17 the development of local programs to prevent motor vehicle theft and
18 insurance fraud;

19 (g) Advise and assist the superintendent of insurance pursuant to
20 section two thousand three hundred forty-eight of the insurance law; and

21 (h) Submit, no later than February fifteenth of each year to the
22 governor and the chairperson of the senate finance committee and the
23 chairperson of the assembly ways and means committee, a written report
24 on the [board's] division's activities, the activities of grant recipi-
25 ents, the results achieved by the grant recipients in improving the
26 detection, prevention or reduction of motor vehicle theft and insurance
27 fraud and the impact such efforts may have on motor vehicle insurance
28 rates.

29 § 162. Subdivision 1 of section 846-m of the executive law, as amended
30 by section 6 of part T of chapter 57 of the laws of 2000, is amended to
31 read as follows:

32 1. In accordance with the legislative intent of this article, the
33 [board] commissioner shall develop [and recommend to the commissioner] a
34 plan of operation which shall provide for a coordinated approach to
35 curtailing motor vehicle theft and motor vehicle insurance fraud
36 throughout the state. The plan shall provide an integrated means to
37 detect, prevent, deter and reduce motor vehicle theft and motor vehicle
38 insurance fraud by providing funds[, upon the recommendation of the
39 board and approved by the commissioner,] to meet these objectives. The
40 plan of operation shall include but not be limited to: an assessment of
41 the scope of the problem of motor vehicle theft and motor vehicle insur-
42 ance fraud, including a regional analysis of the incidence of motor
43 vehicle theft and motor vehicle insurance fraud and related activities;
44 an analysis of various methods of combating the problem; and the devel-
45 opment of a request for proposals process, consistent with the plan, for
46 applications from provider agencies to receive grants from the fund.

47 § 163. Paragraph (c) of subdivision 2 of section 846-m of the execu-
48 tive law, as amended by section 6 of part T of chapter 57 of the laws of
49 2000, is amended to read as follows:

50 (c) In allocating the moneys for the program, the commissioner[, upon
51 recommendation of the board,] shall, to the greatest extent possible,
52 take into account the geographic incidence of motor vehicle theft and
53 insurance fraud, whereby localities with the greatest incidence of motor
54 vehicle theft and insurance fraud shall be targeted for the purposes of
55 this program.

1 § 164. Subdivision 4 of section 89-d of the state finance law, as
2 amended by chapter 170 of the laws of 1994, is amended to read as
3 follows:

4 4. The moneys received by such fund shall be expended pursuant to
5 appropriation only to fund provider agencies which have been awarded
6 grants [by] pursuant to the motor vehicle theft and insurance fraud
7 prevention [board] demonstration program established pursuant to section
8 eight hundred forty-six-1 of the executive law. All moneys expended
9 pursuant to this subdivision shall be for the reimbursement of costs
10 incurred by provider agencies.

11 § 165. Section 844-a of the executive law is REPEALED.

12 § 166. Section 160-a of the executive law, as amended by chapter 397
13 of the laws of 1991, and paragraph (c) of subdivision 6 as added by
14 chapter 241 of the laws of 1999, is amended to read as follows:

15 § 160-a. Definitions. As used in this article the following terms
16 shall mean:

17 1. "Analysis" is a study of real estate or real property other than
18 estimating value.

19 2. "Appraisal" or "real estate appraisal" means an analysis, opinion
20 or conclusion relating to the nature, quality, value or utility of spec-
21 ified interests in, or aspects of, identified real estate. An appraisal
22 may be classified by subject matter into either a valuation or an analy-
23 sis.

24 3. "Appraisal report" means any written communication of an appraisal.

25 4. ["Board" means the state board of real estate appraisal established
26 pursuant to the provisions of section one hundred sixty-c of this arti-
27 cle.

28 5.] (a) "Certified appraisal" or "certified appraisal report" means an
29 appraisal or appraisal report given or signed and certified as such by a
30 certified real estate appraiser. When identifying an appraisal or
31 appraisal report as "certified", the state certified real estate
32 appraiser must indicate which type of certification is held. A certified
33 appraisal or appraisal report represents to the public that it meets the
34 appraisal standards defined in this article.

35 (b) "Licensed appraisal" or "licensed appraisal report" means an
36 appraisal or appraisal report given or signed and authenticated as such
37 by a licensed real estate appraiser. A licensing appraisal or appraisal
38 report represents to the public that it meets the appraisal standards as
39 prescribed by the [board] department.

40 [6.] 5. (a) "State certified real estate appraiser" means a person who
41 develops and communicates real estate appraisal and who holds a current,
42 valid certificate issued to him or her for either general or residential
43 real estate under the provisions of this article.

44 (b) "State licensed real estate appraiser" means a person who develops
45 and communicates real property appraisals and who holds a current valid
46 license issued to him or her for residential real property under the
47 provisions of this article.

48 (c) "State licensed real estate appraiser assistant" means a person
49 who assists and is supervised by a state licensed real estate appraiser
50 or state certified real estate appraiser and who holds a current valid
51 license issued to him or her under the provisions of this article.

52 [7.] 6. "Department" shall mean the department of state.

53 [8.] 7. "Real estate" means an identified parcel or tract of land,
54 including improvements, if any.

55 [9.] 8. "Real property" means one or more defined interests, benefits
56 and rights inherent in the ownership of real estate.

1 [10.] 9. "Valuation" is an estimate of the value of real estate or
2 real property.

3 § 167. Section 160-c of the executive law is REPEALED.

4 § 168. Section 160-d of the executive law, as amended by chapter 397
5 of the laws of 1991, subdivision 1 as amended by chapter 241 of the laws
6 of 1999, is amended to read as follows:

7 § 160-d. Powers of the [board] department. 1. The [board] department
8 shall adopt rules and regulations in aid or furtherance of this article
9 and shall have the following powers and duties:

10 a. To define, with respect to each category of state certified real
11 estate appraisers, state licensed real estate appraisers, and state
12 licensed real estate appraiser assistants, the type of educational expe-
13 rience, appraisal experience and equivalent experience that will meet
14 the statutory requirements of this article, provided, however, that in
15 no event shall the experience, education and examination requirements
16 adopted by the [board] department be less than the minimum criteria
17 established by the Appraisal Subcommittee of the Federal Financial
18 Institutions Examination Council or by the Appraiser Qualification Board
19 of the Appraisal Foundation as referred to in title XI of the Financial
20 Institutions Reform, Recovery and Enforcement Act of 1989;

21 b. To establish examination specifications consistent with the stand-
22 ards of the Appraisal Qualifications Board of the Appraisal Foundation
23 for state licensed real estate appraiser assistants, state licensed real
24 estate appraisers and each category of state certified real estate
25 appraisers, to provide or procure appropriate examination questions and
26 answers and to establish procedures for grading examinations;

27 c. To define, with respect to state licensed real estate appraiser
28 assistants, state licensed real estate appraisers and each category of
29 state certified real estate appraisers, the continuing education
30 requirements for the renewal of a license or a certification that will
31 meet the statutory requirements provided in this article;

32 d. To review the standards for the development and communication of
33 real estate appraisals provided in this article and to adopt regulations
34 explaining and interpreting such standards, provided, however, that such
35 standards must, at a minimum, conform to the uniform standards of
36 professional appraisal as promulgated by the Appraisal Standards Board
37 of the Appraisal Foundation; and

38 e. To prescribe the scope of practice for state licensed real estate
39 appraiser assistants, state licensed real estate appraisers and each
40 category of state certified real estate appraisers, provided, however,
41 that in no event shall the scope of practice prescribed by the [board]
42 department be less than the scope of practice established by the
43 Appraisal Subcommittee of the Federal Financial Institutions Examination
44 Council or by the Appraiser Qualification Board of the Appraisal Founda-
45 tion as referred to in title XI of the Financial Institutions Reform,
46 Recovery and Enforcement Act of 1989;

47 f. To perform such other functions and duties as may be necessary in
48 carrying out the provisions of this article.

49 2. The [board] department shall promulgate rules and regulations
50 prescribing the form and content of each appraisal report. Such rules
51 and regulations shall include but are not limited to the following
52 requirements:

53 a. Each appraisal report shall clearly and accurately disclose any
54 extraordinary assumption or limited condition that directly affects an
55 appraisal.

1 b. Each written appraisal report shall comply with the following
2 specific reporting guidelines:

3 (1) Identify and describe the real estate being appraised;

4 (2) Identify the real property being appraised;

5 (3) Define the opinion that is the purpose of the appraisal and
6 describe the scope of the appraisal;

7 (4) Set forth the effective date of the opinion and the date of the
8 appraisal report;

9 (5) Set forth the appraiser's opinion of the highest and best use of
10 the real estate being appraised when such an opinion is necessary and
11 appropriate;

12 (6) Set forth the appraisal procedure followed, the data considered
13 and the reasoning that supports the analyses, opinions and conclusions;

14 (7) Set forth all assumptions and limiting conditions that affect the
15 analyses, opinions and conclusions in the appraisal report; and

16 (8) Set forth any additional information that may be appropriate to
17 show compliance with, and identify permitted departures from, the
18 requirements for the development of appraisals as provided in this arti-
19 cle or as established by the [board] department.

20 3. The [board] department shall establish standards of developing an
21 appraisal. Such standards shall, among other things, state the follow-
22 ing guidelines:

23 a. All state certified or licensed real estate appraisers conducting
24 certified or licensed appraisals, performing appraisal service or issu-
25 ing an appraisal shall:

26 (1) Be aware of, understand and correctly employ those recognized
27 appraisal methods and techniques that are necessary to produce a credi-
28 ble analysis, opinion or conclusion;

29 (2) Not commit a substantial error or omission of commission which
30 results from a significant departure from the recognized appraisal meth-
31 ods and techniques;

32 (3) Not commit a substantial error or omission of commission that
33 significantly affects an analysis, opinion or conclusion;

34 (4) Identify the real estate and real property under consideration,
35 define the opinion that is the purpose of the appraisal, consider the
36 scope of the appraisal service and identify the effective date of the
37 opinion;

38 (5) Identify and consider the appropriate procedures and market data
39 required to perform the appraisal service, where appropriate;

40 (6) Consider the effect on use and value of the following factors:
41 existing land use regulations, reasonably probable modifications of land
42 use regulations, economic demand, the physical adaptability of the prop-
43 erty, neighborhood trends and the highest and best use of the property;

44 (7) Consider the effect on the property being appraised of anticipated
45 public or private improvements, located on or off the site, to the
46 extent that market actions reflect the anticipated improvements as of
47 the effective appraisal date;

48 (8) Recognize that land may be appraised as though vacant and avail-
49 able for development and that the appraisal of improvements is based on
50 their actual contributions to the site;

51 (9) Appraise proposed improvements only after examining and having
52 available for future examination plans, specifications or other documen-
53 tation sufficient to identify the scope and character of the proposed
54 improvements, evidence indicating the probable time of completion of the
55 proposed improvements, and reasonably clear and appropriate evidence

1 supporting development costs, anticipated earnings, occupancy projec-
2 tions and the anticipated competition at the time of completion; and

3 (10) Base estimates of anticipated future rent and expenses for the
4 real estate and real property being appraised on reasonably clear and
5 appropriate evidence.

6 b. In addition to the foregoing, an appraiser shall define the value
7 being considered. If the value estimate is a statement or estimate of
8 market value, he or she shall clearly indicate whether the statement or
9 estimate is the most probable price in terms of cash or financial
10 arrangements equivalent to cash or other terms as may be precisely
11 defined. If an estimate of value is based on submarket financing or
12 financing with unusual conditions or incentives, the terms of such a
13 typical financing shall be clearly set forth, their contributions to, or
14 negative influence on value shall be described and estimated, and the
15 market data supporting the valuation estimate shall be described and
16 explained.

17 c. For each real property appraisal analysis, opinion or conclusion
18 that contains an estimate of value, a state certified or licensed real
19 estate appraiser shall observe all of the following specific real prop-
20 erty appraisal guidelines:

21 (1) Consider whether an appraised fractional interest, physical
22 segment or partial holding contributes pro rata to the value of the
23 whole;

24 (2) Identify any personal property or other items that are not real
25 estate but are included with or considered in connection with real
26 estate being appraised and contribute to the total value estimate or
27 conclusion;

28 (3) Consider and analyze any current agreement of sale, option or
29 listing of the real estate and real property being appraised, if the
30 information is available to the person in the normal course of business;

31 (4) Consider and analyze any prior sales of the property being
32 appraised that occurred within one year;

33 (5) When estimating the value of a leased fee estate or a leasehold
34 estate, analyze and consider the effect on value, if any, of the terms
35 and conditions of the lease; and

36 (6) Give careful consideration to the effect on value, if any, of the
37 assemblage of the various estates or component parts of an estate and
38 refrain from estimating the value of the whole solely by adding together
39 the individual values of its various estates or component parts.

40 d. In developing a review appraisal, a state certified or licensed
41 real estate appraiser shall observe all of the following specific
42 appraisal guidelines:

43 (1) Identify the appraisal report being reviewed, the real estate
44 being appraised, the real property being appraised, the effective date
45 of the opinion in the original report, the date of the original report
46 and the date of the review;

47 (2) Identify the scope of the review process to be conducted, includ-
48 ing a determination of whether or not it is appropriate or essential to
49 inspect the appraised property and the data presented;

50 (3) Form an opinion as to the adequacy and relevance of the data used
51 and the propriety of any adjustment made;

52 (4) Form an opinion as to whether or not the appraisal methods and
53 techniques used were appropriate and, if not, the reasons for the
54 person's disagreement with the original appraisal; and

55 (5) Form an opinion as to whether or not the analyses, opinions or
56 conclusions in the report being reviewed are correct or appropriate and,

1 if not, state his or her analyses, opinions or conclusions and his or
2 her reasons for disagreement with the original appraisal.

3 e. In developing an appraisal for an employer or a client, a state
4 certified or licensed real estate appraiser shall carefully consider and
5 determine whether the appraisal service to be performed is intended to
6 result in an analysis, opinion or conclusion of a disinterested third
7 party and therefore would be classified as an appraisal assignment as
8 defined in subdivision two of section one hundred sixty-x of this arti-
9 cle. If the appraisal service to be performed is not intended to result
10 in an analysis, opinion or conclusion of a disinterested third party,
11 the person shall then carefully consider whether or not he or she would
12 be perceived by third parties or the public as acting as a disinterested
13 third party.

14 f. Prior to entering into an agreement to perform a real property
15 appraisal service, a state certified or licensed real estate appraiser
16 shall carefully consider the knowledge and experience that will be
17 required to complete the appraisal service competently and either:

18 (1) Have the knowledge and experience necessary to complete the
19 appraisal service competently; or

20 (2) Immediately disclose the lack of knowledge or experience to the
21 client and take all steps necessary to complete the appraisal service
22 competently.

23 g. A state certified or licensed real estate appraiser may enter into
24 an agreement to perform a real property appraisal service that calls for
25 something less than, or different from, the work that would otherwise be
26 required by the specific appraisal guidelines, provided that prior to
27 entering into the agreement, he or she has done all of the following:

28 (1) The state certified or licensed real estate appraiser has deter-
29 mined that the appraisal service to be performed is not so limited in
30 scope that the resulting analysis, opinion or conclusion concerning real
31 estate or real property would tend to mislead or confuse the client, the
32 users of the appraisal report or the public; and

33 (2) The state certified or licensed real estate appraiser has advised
34 the client that the appraisal service calls for something less than, or
35 different from, the work required by the specific appraisal guidelines,
36 and therefore the appraisal report will include a qualification that
37 reflects the limited or differing scope of the appraisal service.

38 § 169. Section 160-e of the executive law, as amended by chapter 397
39 of the laws of 1991, is amended to read as follows:

40 § 160-e. [Powers] Additional powers of the department. The department
41 shall have the following additional powers and duties:

42 1. To receive applications for certification and licensing;

43 2. To establish the administrative procedures for processing applica-
44 tions for certification and licensing;

45 3. To approve or disapprove applications for certification or license
46 and issue certificates or licenses;

47 4. To maintain a registry of the names and addresses of people certi-
48 fied or licensed under this article;

49 5. To retain records and all application materials submitted to it;

50 6. To approve courses and seminars for original certification or
51 licensing and continuing education to ensure that the same are consist-
52 ent with the standards established by the [board] department, or equiv-
53 alent to those required by such standards;

54 7. [To assist the board in such other manner as the board may request;

55 8. To establish administrative procedures for disciplinary proceedings
56 conducted pursuant to the provisions of this article; and

1 9.] To suspend and revoke certificates or licenses pursuant to the
2 disciplinary proceedings provided for in this article.

3 § 170. Subdivision 1 of section 160-g of the executive law, as amended
4 by chapter 397 of the laws of 1991, is amended to read as follows:

5 1. Applications for original certification and recertification,
6 original license and renewal of license, and examinations shall be made
7 in writing to the department on forms approved by the [board]
8 department.

9 § 171. Subdivision 1 of section 160-h of the executive law, as amended
10 by chapter 241 of the laws of 1999, is amended to read as follows:

11 1. There shall be one class of license for state licensed real estate
12 appraiser assistants, one class of license for state licensed real
13 estate appraisers and two classes of certification for state certified
14 real estate appraisers. The classes of certification shall be state
15 certified residential real estate appraiser and state certified general
16 real estate appraiser. The [board] department shall prescribe the scope
17 of practice for each license and both classes of certification,
18 provided, however, that in no event shall the scope of practice
19 prescribed by the [board] department be less than the minimum criteria
20 established by the Appraisal Subcommittee of the Federal Financial
21 Institutions Examination Council or by the Appraiser Qualification Board
22 of the Appraisal Foundation as referred to in title XI of the Financial
23 Institutions Reform, Recovery and Enforcement Act of 1989.

24 § 172. Section 160-j of the executive law, as amended by chapter 248
25 of the laws of 2007, is amended to read as follows:

26 § 160-j. Examination prerequisites. 1. Certified general classifica-
27 tion. As a prerequisite to taking the examination for certification as
28 a state certified general real estate appraiser, an applicant shall
29 present evidence satisfactory to the [board] department that he or she
30 has fulfilled the minimum education and experience requirements for such
31 certification examination as established by the [board] department,
32 which shall not be less than the minimum criteria established by the
33 Appraiser Qualification Board pursuant to Title XI of the Financial
34 Institution Reform, Recovery and Enforcement Act of 1989.

35 2. Certified residential classification. As a prerequisite to taking
36 the examination for certification as a state certified residential real
37 estate appraiser, an applicant shall present evidence satisfactory to
38 the [board] department that he or she has fulfilled the minimum educa-
39 tion and experience requirements for such certification examination as
40 established by the [board] department, which shall not be less than the
41 minimum criteria established by the Appraiser Qualification Board pursu-
42 ant to Title XI of the Financial Institution Reform, Recovery and
43 Enforcement Act of 1989.

44 3. Licensed classification. As a prerequisite to taking the examina-
45 tion for licensing as a state licensed real estate appraiser, an appli-
46 cant shall present evidence satisfactory to the [board] department that
47 he or she has fulfilled the minimum education and experience require-
48 ments for such certification examination as established by the [board]
49 department, which shall not be less than the minimum criteria estab-
50 lished by the Appraiser Qualification Board pursuant to Title XI of the
51 Financial Institution Reform, Recovery and Enforcement Act of 1989.

52 § 173. Subdivision 1 of section 160-k of the executive law, as amended
53 by chapter 397 of the laws of 1991, is amended to read as follows:

54 1. An original certification of a state certified real estate
55 appraiser, or an original license of a state licensed real estate
56 appraiser, shall not be issued to any person who does not possess the

1 equivalent of two years of appraisal experience in real property
2 appraisal as defined by the [board] department supported by adequate
3 written reports. Such experience may include fee and staff appraisal, ad
4 valorem tax appraisal, review appraisal, appraisal analysis, highest and
5 best use analysis, feasibility analysis or study, and teaching of
6 appraisal courses at a university, college, or junior college when such
7 courses have a duration of not less than ten weeks.

8 § 174. Subdivision 2 of section 160-m of the executive law, as amended
9 by chapter 397 of the laws of 1991, is amended to read as follows:

10 2. When a nonresident of this state, certified or licensed under the
11 laws of his resident state, the certification and licensing process of
12 which has not been disapproved by the appraisal subcommittee of the
13 federal financial institutions examination council, does not maintain an
14 office for providing appraisal services to clients in this state, and
15 has complied with subdivision one of this section, such nonresident may,
16 upon recommendation of the [board] department, pursuant to such tempo-
17 rary licensing rules or regulations as the [board] department may
18 promulgate, provide certified or licensed appraisals. No temporary
19 certificate or license shall be valid for a duration greater than one
20 year after the date of issue. Any person performing, or seeking to
21 perform, federally related appraisals shall be liable for, and pay, all
22 fees, rated proportionately, which would apply to such person were he or
23 she a resident of this state.

24 § 175. Subdivision 4 of section 160-m of the executive law, as added
25 by chapter 397 of the laws of 1991, is amended to read as follows:

26 4. The [board] department shall recognize on a temporary basis the
27 certification or license of an appraiser issued by another state pursu-
28 ant to section 1122 of Title XI of the Financial Institutions Reform,
29 Recovery, and Enforcement Act of 1989, Pub. Law. No. 101-73, 103 Stat.
30 183 (1989) (codified at 12 U.S.C. 331 et seq.).

31 § 176. Section 160-n of the executive law, as amended by chapter 397
32 of the laws of 1991, is amended to read as follows:

33 § 160-n. Nonresident certification and licensing by reciprocity. If,
34 in the determination of the [board] department, the certification or
35 licensing process has not been disapproved by the appraisal subcommittee
36 of the federal financial institutions examination council, an applicant
37 who is certified under the laws of such other state may obtain a certif-
38 icate as a state certified real estate appraiser or a license as a state
39 licensed real estate appraiser in this state upon such terms and condi-
40 tions as may be determined by the department.

41 § 177. Subdivision 1 of section 160-r of the executive law, as amended
42 by chapter 397 of the laws of 1991, is amended to read as follows:

43 1. A certificate or license issued under authority of this article
44 shall bear the signature of the [executive secretary of the board]
45 secretary of state and a certificate or license number assigned by the
46 department.

47 § 178. Subdivision 4 of section 160-t of the executive law, as amended
48 by chapter 397 of the laws of 1991, is amended to read as follows:

49 4. The secretary of state or her duly appointed designee shall adopt
50 regulations [upon recommendation by the board] for implementations of
51 the provisions of this article to assure that persons renewing their
52 certifications as state certified real estate appraisers or licenses as
53 state licensed real estate appraisers have current knowledge of real
54 property appraisal theories, practices and techniques which will provide
55 a high degree of service and protection to those members of the public
56 with whom they deal in a professional relationship under authority of

1 the certification or license. The regulations shall prescribe the
2 following:

3 a. Policies and procedures for obtaining departmental approval of
4 courses of instruction pursuant to subdivision two of this section;

5 b. Standards, policies and procedures to be applied by the department
6 in evaluating applicant's claims of equivalency in accordance with
7 subdivision three of this section;

8 c. Standards, monitoring methods and systems for recording attendance
9 to be employed by course sponsors as a prerequisite to department
10 approval of courses for credit.

11 § 179. Subdivision 5 of section 160-t of the executive law, as amended
12 by chapter 397 of the laws of 1991, is amended to read as follows:

13 5. In adopting regulations pursuant to paragraph a of subdivision four
14 of this section, the [board] department shall give favorable consider-
15 ation to courses of instruction, seminars and other real property
16 appraisal educational courses or programs previously or hereafter devel-
17 oped by or under the auspices of professional appraisal organizations
18 and utilized by those associations for purposes of designation or indi-
19 cating compliance with the continuing education requirements of such
20 organizations.

21 § 180. Subdivision 8 of section 160-t of the executive law, as added
22 by chapter 241 of the laws of 1999, is amended to read as follows:

23 8. The [board] department shall prescribe the continuing education
24 requirements for licensed real estate appraiser assistants; provided,
25 however, that in no event shall such requirements be less than the mini-
26 mum criteria established by the Appraisal Subcommittee of the Federal
27 Financial Institutions Examination Council or by the Appraiser Quali-
28 fication Board of the Appraisal Foundation as referred to in title XI of
29 the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

30 § 181. Paragraph i of subdivision 1 of section 160-u of the executive
31 law, as amended by chapter 397 of the laws of 1991, is amended to read
32 as follows:

33 i. Willfully disregarding or violating any of the provisions of this
34 article or the regulations of the [board] department for the adminis-
35 tration and enforcement of the provisions of this article;

36 § 182. Subdivision 3 of section 160-z of the executive law, as amended
37 by chapter 397 of the laws of 1991, is amended to read as follows:

38 3. All records required to be maintained under the provisions of this
39 article shall be made available by the state certified or licensed real
40 estate appraiser for inspection and copying by the [board] department on
41 reasonable notice to such appraiser. All such records copied by the
42 [board] department shall be kept confidential, except where disclosure
43 of same is required by law or mandate of a court.

44 § 183. Section 160-aa of the executive law, as added by chapter 397 of
45 the laws of 1991, is amended to read as follows:

46 § 160-aa. Transitional licensing. Consistent with the intent and
47 purpose of this article, and without the disapproval of the appraisal
48 subcommittee of the federal financial institutions examination council,
49 the [board] department may prescribe requirements for transitional
50 licenses which shall expire no later than January first, nineteen
51 hundred ninety-three.

52 § 184. Subdivision 6 of section 870-e of the labor law, as added by
53 chapter 368 of the laws of 2006, is amended as follows:

54 6. The commissioner shall[, in consultation with the carnival, fair
55 and amusement park safety advisory board as established under section
56 eight hundred seventy-n of this article, as added by a chapter of the

1 laws of two thousand six,] establish rules and regulations providing
2 standards for the design, manufacture, testing, inspection, quality
3 assurance and terminology of amusement devices. The rules and regu-
4 lations established pursuant to this subdivision shall be consistent
5 with the national standards for amusement devices, as established by the
6 American Society of Testing and Materials.

7 § 185. Section 870-n of the labor law is REPEALED.

8 § 186. Section 870-o of the labor law, as added by chapter 367 of the
9 laws of 2006, is amended as follows:

10 § 870-o. Amusement device and attraction awareness. The department
11 shall develop, establish and implement[, in cooperation with the carni-
12 val, fair and amusement park safety advisory board established in
13 section eight hundred seventy-n of this article,] a program to educate
14 and provide awareness to the public on the risks of amusement devices
15 and attractions to both adults and children, and how adults can take
16 steps to assure their own safety and the safety of children in their
17 care. The program established pursuant to this section shall provide and
18 disseminate guidelines for safety while riding or using amusement
19 devices or attractions by adults, adolescents and children. Such program
20 shall utilize written information provided to the public and the posting
21 of conspicuous signs at carnivals, fairs and amusement parks, as
22 required by law or regulation.

23 § 187. Section 2004-a of the public health law is REPEALED.

24 § 188. Section 216 of the elder law is REPEALED.

25 § 189. Intentionally omitted.

26 § 190. Intentionally omitted.

27 § 191. Intentionally omitted.

28 § 192. Intentionally omitted.

29 § 193. Intentionally omitted.

30 § 194. Section 120 of the economic development law is REPEALED.

31 § 195. Article 28 of the executive law is REPEALED.

32 § 196. Section 26 of chapter 115 of the laws of 2008 creating a task
33 force on the future of off-track betting in New York state is REPEALED.

34 § 197. Section 216-b of the vehicle and traffic law is REPEALED.

35 § 198. Section 209 of the elder law, subdivision 5-a as added and the
36 opening paragraph of subdivision 8 as amended by section 2 of part E of
37 chapter 58 of the laws of 2005, subdivision 6 as added and subdivisions
38 7 and 8 as renumbered by chapter 82 of the laws of 2008, is amended to
39 read as follows:

40 § 209. Naturally occurring retirement community supportive service
41 program. 1. As used in this section:

42 (a) "Advisory committee" or "committee" shall mean the advisory
43 committee convened [by] to assist the director [pursuant to subdivision
44 three of] for the purposes specified in this section. Such committee
45 shall be broadly representative of housing and senior citizen groups,
46 and all geographic areas of the state.

47 (b) ["Elderly" or "elderly persons"] "Older adults" shall mean persons
48 who are sixty years of age or older and who are heads of households.

49 (c) "Eligible applicant" shall mean a not-for-profit agency specializ-
50 ing in housing, health or other human services which serves or would
51 serve the community within which a naturally occurring retirement commu-
52 nity is located.

53 (d) "Eligible services" shall mean services including, but not limited
54 to: case management, care coordination, counseling, health assessment
55 and monitoring, transportation, socialization activities, home care
56 facilitation and monitoring, and other services designed to address the

1 needs of residents of naturally occurring retirement communities by
2 helping them extend their independence, improve their quality of life,
3 and avoid unnecessary hospital and nursing home stays.

4 (e) "Government assistance" shall mean and be broadly interpreted to
5 mean any monetary assistance provided by the federal, the state or a
6 local government, or any agency thereof, or any authority or public
7 benefit corporation, in any form, including loans or loan subsidies, for
8 the construction of an apartment building or housing complex for low and
9 moderate income persons, as such term is defined by the United States
10 Department of Housing and Urban Development.

11 (f) "Naturally occurring retirement community" shall mean an apartment
12 building or housing complex which:

13 (1) was constructed with government assistance;

14 (2) was not originally built for [elderly persons] older adults;

15 (3) does not restrict admissions solely to [the elderly] older adults;

16 (4) at least fifty percent of the units have an occupant who is
17 [elderly] an older adult or in which at least twenty-five hundred of the
18 residents are [elderly] older adults; and

19 (5) a majority of the [elderly] older adults to be served are low or
20 moderate income, as defined by the United States Department of Housing
21 and Urban Development.

22 2. A naturally occurring retirement community supportive service
23 program is established as a demonstration program to be administered by
24 the director.

25 3. The director shall [convene] be assisted by an advisory committee
26 [to aid in developing] in the development of appropriate criteria for
27 the selection of grantees of funds provided pursuant to this section and
28 programmatic issues as deemed appropriate by the director. [The func-
29 tions otherwise required to be performed by the advisory committee shall
30 be performed by the director until such committee is convened; provided,
31 however, that the director shall under no circumstances perform such
32 functions after the expiration of six months after the effective date of
33 this section.]

34 4. The criteria recommended by the committee and adopted by the direc-
35 tor for the award of grants shall be consistent with the provisions of
36 this section and shall include, at a minimum:

37 (a) the number, size, type and location of the projects to be served;
38 provided, that the committee and director shall make reasonable efforts
39 to assure that geographic balance in the distribution of such projects
40 is maintained, consistent with the needs to be addressed, funding avail-
41 able, applications for eligible applicants, other requirements of this
42 section, and other criteria developed by the committee and director;

43 (b) the appropriate number and concentration of [elderly] older adult
44 residents to be served by an individual project; provided, that such
45 criteria need not specify, in the case of a project which includes
46 several buildings, the number of [elderly] older adults to be served in
47 any individual building;

48 (c) the demographic characteristics of the residents to be served;

49 (d) the financial support required to be provided to the project by
50 the owners, managers and residents of the housing development; provided,
51 however, that such criteria need not address whether the funding is
52 public or private, or the source of such support;

53 (e) the scope and intensity of the services to be provided, and their
54 appropriateness for the residents proposed to be served. The criteria
55 shall not require that the applicant agency be the sole provider of such

1 services, but shall require that the applicant at a minimum actively
2 manage the provision of such services;

3 (f) the experience and financial stability of the applicant agency,
4 provided that the criteria shall require that priority be given to
5 programs already in operation, including those projects participating in
6 the resident advisor program administered by the office, and enriched
7 housing programs which meet the requirements of this section and which
8 have demonstrated to the satisfaction of the director and the committee
9 their fiscal and managerial stability and programmatic success in serv-
10 ing residents;

11 (g) the nature and extent of requirements proposed to be established
12 for active, meaningful participation for residents proposed to be served
13 in project design, implementation, monitoring, evaluation and gover-
14 nance;

15 (h) an agreement by the applicant to participate in the data
16 collection and evaluation project necessary to complete the report
17 required by this section;

18 (i) the policy and program roles of the applicant agency and any other
19 agencies involved in the provision of services or the management of the
20 project, including the housing development governing body, or other
21 owners or managers of the apartment buildings and housing complexes and
22 the residents of such apartment buildings and housing complexes. The
23 criteria shall require a clear delineation of such policy and program
24 roles;

25 (j) a requirement that each eligible agency document the need for the
26 project and financial commitments to it from such sources as the commit-
27 tee and the director shall deem appropriate given the character and
28 nature of the proposed project, and written evidence of support from the
29 appropriate housing development governing body or other owners or manag-
30 ers of the apartment buildings and housing complexes. The purpose of
31 such documentation shall be to demonstrate the need for the project,
32 support for it in the areas to be served, and the financial and manage-
33 rial ability to sustain the project;

34 (k) a requirement that any aid provided pursuant to this section be
35 matched by an equal amount from other sources and that at least twenty-
36 five percent of such amount be contributed by the housing development
37 governing body or other owners or managers and residents of the apart-
38 ment buildings and housing complexes in which the project is proposed;
39 and

40 (l) the circumstances under which the director may waive all or part
41 of the requirement for provision of an equal amount of funding from
42 other sources required pursuant to paragraph (k) of this subdivision,
43 provided that such criteria shall include provision for waiver at the
44 discretion of the director upon a finding by the director that the
45 program will serve a low income or hardship community, and that such
46 waiver is required to assure that such community receive a fair share of
47 the funding available. The committee shall develop appropriate criteria
48 for determining whether a community is a low income or hardship communi-
49 ty.

50 5. Within amounts specifically appropriated therefor and consistent
51 with the criteria developed and required pursuant to this section the
52 director shall approve grants to eligible applicants in amounts not to
53 exceed one hundred fifty thousand dollars for a project in any twelve
54 month period. The director shall not approve more than ten grants in the
55 first twelve month period after the effective date of this section.

1 5-a. The director may, in addition recognize neighborhood naturally
2 occurring retirement communities, or Neighborhood NORCs, and provide
3 program support within amounts specifically available by appropriation
4 therefor, which shall be subject to the requirements, rules and regu-
5 lations of this section, provided however that:

6 (a) the term Neighborhood NORC as used in this subdivision shall mean
7 and refer to a residential dwelling or group of residential dwellings in
8 a geographically defined neighborhood of a municipality containing not
9 more than two thousand persons who are [elderly] older adults reside in
10 at least forty percent of the units and which is made up of low-rise
11 buildings six stories or less in height and/or single and multi-family
12 homes and which area was not originally developed for [elderly persons]
13 older adults, and which does not restrict admission strictly to [the
14 elderly] older adults;

15 (b) grants to an eligible Neighborhood NORC shall be no less than
16 sixty thousand dollars for any twelve-month period;

17 (c) the director shall [convene an] be assisted by the advisory
18 committee [to help develop] in the development of criteria for the
19 selection of grants provided pursuant to this section and programmatic
20 issues as deemed appropriate by the director. [The functions otherwise
21 required to be performed by the advisory committee shall be performed by
22 the director until the committee is convened, or for six months after
23 the effective date of this subdivision, whichever occurs earlier.] The
24 criteria recommended by the committee and adopted by the director for
25 the award of grants shall be consistent with the provisions of this
26 subdivision and shall include, at a minimum, the following requirements
27 or items of information using such criteria as the advisory committee
28 and the director shall approve:

29 (1) the number, size, type and location of residential dwellings or
30 group of residential dwellings selected as candidates for neighborhood
31 NORCs funding. The director shall make reasonable efforts to assure that
32 geographic balance in the distribution of such grants is maintained,
33 consistent with the needs to be addressed, funding available, applica-
34 tions from eligible applicants, ability to coordinate services and other
35 requirements of this section;

36 (2) the appropriate number and concentration of [elderly] older adult
37 residents to be served by an individual Neighborhood NORC. The criteria
38 need not specify the number of [elderly] older adults to be served in
39 any individual building;

40 (3) the demographic characteristics of the residents to be served;

41 (4) a requirement that the applicant demonstrate the development or
42 intent to develop community wide support from residents, neighborhood
43 associations, community groups, nonprofit organizations and others;

44 (5) a requirement that the boundaries of the geographic area to be
45 served are clear and coherent and create an identifiable program and
46 supportive community;

47 (6) a requirement that the applicant commit to raising matching funds
48 from non-state sources of fifteen percent of the state grant in the
49 second year after the program is approved, twenty-five percent in the
50 third year, forty percent in the fourth year, and fifty percent in the
51 fifth year, and further commit that in each year, twenty-five percent of
52 such required matching funds be raised within the community served. Such
53 local community matching funds shall include but not be limited to:
54 dues, fees for service, individual and community contributions, and such
55 other funds as the advisory committee and the director shall deem appro-
56 priate;

1 (7) a requirement that the applicant demonstrate experience and finan-
2 cial stability;

3 (8) a requirement that priority in selection be given to programs in
4 existence prior to the effective date of this subdivision which, except
5 for designation and funding requirements established herein, would have
6 otherwise generally qualified as a Neighborhood NORC;

7 (9) a requirement that the applicant conduct or have conducted a needs
8 assessment on the basis of which such applicant shall establish the
9 nature and extent of services to be provided; and further that such
10 services shall provide a mix of appropriate services that provide active
11 and meaningful participation for residents;

12 (10) a requirement that residents to be served shall be involved in
13 design, implementation, monitoring, evaluation and governance of the
14 Neighborhood NORC;

15 (11) an agreement by the applicant that it will participate in the
16 data collection and evaluation necessary to complete the reporting
17 requirements as established by the director;

18 (12) the policy and program roles of the applicant agency and any
19 other agencies involved in the provision of services or the management
20 of the Neighborhood NORC, provided that the criteria shall require a
21 clear delineation of such policy and program roles;

22 (13) a requirement that each applicant document the need for the grant
23 and financial commitments to it from such sources as the advisory
24 committee and the director shall deem appropriate given the character
25 and nature of the proposed Neighborhood NORC and written evidence of
26 support from the community;

27 (14) the circumstances under which the director may waive all or part
28 of the requirement for provision of an equal amount of funding from
29 other sources required pursuant to this subdivision, provided that such
30 criteria shall include provision for waiver at the discretion of the
31 director upon a finding by the director that the Neighborhood NORC will
32 serve a low income or hardship community, and that such waiver is
33 required to assure that such community receive a fair share of the fund-
34 ing available. For purposes of this paragraph, a hardship community may
35 be one that has developed a successful model but which needs additional
36 time to raise matching funds required herein. An applicant applying for
37 a hardship exception shall submit a written plan in a form and manner
38 determined by the director detailing its plans to meet the matching
39 funds requirement in the succeeding year;

40 (15) a requirement that any proposed Neighborhood NORC in a geograph-
41 ically defined neighborhood of a municipality containing more than two
42 thousand [seniors] older adults shall require the review and recommenda-
43 tion by the advisory committee before being approved by the director;

44 (d) on or before March first, two thousand eight, the director shall
45 report to the governor and the fiscal and aging committees of the senate
46 and the assembly concerning the effectiveness of Neighborhood NORCs in
47 achieving the objectives set forth by this subdivision. Such report
48 shall address each of the items required for Neighborhood NORCs in
49 achieving the objectives set forth in this section and such other items
50 of information as the director shall deem appropriate, including recom-
51 mendations concerning continuation or modification of the program, and
52 any recommendations from the advisory committee.

53 (e) in providing program support for Neighborhood NORCs as authorized
54 by this subdivision, the director shall in no event divert or transfer
55 funding for grants or program support from any naturally occurring

1 retirement community supportive service programs authorized pursuant to
2 other provisions of this section.

3 6. The director may allow services provided by a naturally occurring
4 retirement community supportive service program or by a neighborhood
5 naturally occurring retirement community to also include services to
6 residents who live in neighborhoods contiguous to the boundaries of the
7 geographic area served by such programs if: (a) the persons served are
8 [elderly persons] older adults; (b) the services affect the health and
9 welfare of such persons; and (c) the services are provided on a one-time
10 basis in the year in which they are provided, and not in a manner which
11 is said or intended to be continuous. The director may also consent to
12 the provision of such services by such program if the program has
13 received a grant which requires services to be provided beyond the
14 geographic boundaries of the program. The director shall establish
15 procedures under which a program may request the ability to provide such
16 services.

17 7. The director shall promulgate rules and regulations as necessary to
18 carry out the provisions of this section.

19 8. On or before March first, two thousand five, the director shall
20 report to the governor and the finance committee of the senate and the
21 ways and means committee of the assembly concerning the effectiveness of
22 the naturally occurring retirement community supportive services
23 program, other than Neighborhood NORCs, as defined in subdivision five-a
24 of this section, in achieving the objectives set forth by this section,
25 which include helping to address the needs of residents in such
26 naturally occurring retirement communities, assuring access to a contin-
27 uum of necessary services, increasing private, philanthropic and other
28 public funding for programs, and preventing unnecessary hospital and
29 nursing home stays. The report shall also include recommendations
30 concerning continuation or modification of the program from the director
31 and the committee, and shall note any divergence between the recommenda-
32 tions of the director and the committee. The director shall provide the
33 required information and any other information deemed appropriate to the
34 report in such form and detail as will be helpful to the legislature and
35 the governor in determining to extend, eliminate or modify the program
36 including, but not limited to, the following:

37 (a) the number, size, type and location of the projects developed and
38 funded, including the number, kinds and functions of staff in each
39 program;

40 (b) the number, size, type and location of the projects proposed but
41 not funded, and the reasons for denial of funding for such projects;

42 (c) the age, sex, religion and other appropriate demographic informa-
43 tion concerning the residents served;

44 (d) the services provided to residents, reported in such manner as to
45 allow comparison of services by demographic group and region;

46 (e) a listing of the services provided by eligible applicants, includ-
47 ing the number, kind and intensity of such services; and

48 (f) a listing of other organizations providing services, the number,
49 kind and intensity of such services, the number of referrals to such
50 organizations and, to the extent practicable, the outcomes of such
51 referrals.

52 § 198-a. Subdivision 1 of section 210 of the elder law is amended to
53 read as follows:

54 1. There shall be within the office an advisory committee for the
55 aging, consisting of not more than [twenty-five] thirty-five members,
56 appointed by the governor. In making such appointments, the governor

1 shall give due consideration to representation from the major regions of
2 the state. One member of the advisory committee shall be designated as
3 chairperson by the governor and shall serve as chairperson at the pleas-
4 ure of the governor. The advisory committee shall meet from time to time
5 at the call of such chairperson or the director. The director shall seek
6 the advice of the advisory committee with respect to the needs of the
7 aging and, if so requested by the director, such committee shall make
8 particular studies relating to the aging.

9 § 199. Section 2 of the public health law is amended by adding a new
10 subdivision 3 to read as follows:

11 3. Whenever the term "public health council" occurs, or any reference
12 is made thereto, in any law, it shall be deemed to mean or refer to the
13 public health and health planning council as described in article two of
14 this chapter.

15 § 200. Subdivision 3 of section 201 of the public health law is
16 amended to read as follows:

17 3. All the provisions of this chapter shall apply to the department
18 continued by this chapter and to the commissioner, the public health
19 council and any successor council, and to the divisions, bureaus and
20 officers in such department.

21 § 201. Section 206 of the public health law is amended by adding a new
22 subdivision 27 to read as follows:

23 27. Notwithstanding any provision of law to the contrary, the commis-
24 sioner is authorized to exercise the authority of the state hospital
25 review and planning council to adopt, amend, or repeal rules and regu-
26 lations as set forth in this chapter.

27 § 202. Section 220 of the public health law, as amended by chapter 301
28 of the laws of 1989, is amended to read as follows:

29 § 220. Public health and health planning council; appointment of
30 members. There shall continue to be in the department a public health
31 and health planning council to consist of the commissioner and fourteen
32 members to be appointed by the governor with the advice and consent of
33 the senate; provided that effective December first, two thousand ten,
34 the membership of the council shall consist of the commissioner and
35 twenty-two members to be appointed by the governor. Membership on the
36 council shall be reflective of the diversity of the state's population
37 including, but not limited to, the various geographic areas and popu-
38 lation densities throughout the state. The members shall include repre-
39 sentatives of the public health system and health care providers that
40 comprise the state's health care delivery system, individuals with
41 expertise in the clinical and administrative aspects of health care
42 delivery, issues affecting health care consumers, health planning,
43 health care financing and reimbursement, health care regulation and
44 compliance, public health practice, and at least one member who is also
45 a member of the mental health services council.

46 § 203. Section 221 of the public health law, as amended by chapter 301
47 of the laws of 1989, is amended to read as follows:

48 § 221. Public health and health planning council; terms of office;
49 vacancies. 1. The terms of office of members of the public health and
50 health planning council shall be six years. The members of the council
51 shall continue in office until the expiration of their terms and until
52 their successors are appointed [and have qualified]. Such appointments
53 shall be made by the governor[, with the advice and consent of the
54 senate,] within one year following the expiration of such terms.

55 2. Vacancies shall be filled by appointment by the governor for the
56 unexpired terms within one year of the date upon which such vacancies

1 occur. [Any vacancy existing on the effective date of subdivision three
2 of this section shall be filled by appointment within one year of such
3 effective date.]

4 3. In making appointments to the council, the governor shall seek to
5 ensure that membership on the council reflects the diversity of the
6 state's population including, but not limited to the various geographic
7 areas and population densities throughout the state.

8 4. Notwithstanding subdivision one of this section, of the eight
9 members appointed or reappointed to the council on or after December
10 first, two thousand ten, two shall serve a term of three years, two
11 shall serve a term of four years, two shall serve a term of five years,
12 and two shall serve a term of six years. Thereafter, members appointed
13 or reappointed upon expiration of a term of office shall be appointed
14 for a term of six years and shall continue in office until their succes-
15 sors are appointed.

16 § 204. Section 222 of the public health law is amended to read as
17 follows:

18 § 222. Public health and health planning council; meetings; by-laws.

19 1. The public health and health planning council shall meet as frequent-
20 ly as its business may require, and at least twice in each year.

21 2. The governor shall designate one of the members of the public
22 health and health planning council as its [chairman] chair.

23 3. The public health and health planning council shall enact and from
24 time to time may amend by-laws in relation to its meetings and the tran-
25 sactions of its business.

26 4. All meetings of the public health and health planning council shall
27 in every proceeding be deemed to have been duly called and regularly
28 held, and all regulations and proceedings to have been duly authorized
29 unless the contrary be proved.

30 § 205. Section 223 of the public health law, as amended by chapter 55
31 of the laws of 1992, is amended to read as follows:

32 § 223. Public health and health planning council; compensation and
33 expenses. The members of the public health and health planning council
34 other than the commissioner of health shall [each] receive [two hundred
35 twenty-five dollars for each day devoted to council work not to exceed
36 two thousand seven hundred dollars in any one year plus necessary
37 expenses] no compensation for their services, but shall be reimbursed
38 for expenses actually and necessarily incurred in the performance of
39 their duties.

40 § 206. Intentionally omitted.

41 § 207. Section 224 of the public health law is amended to read as
42 follows:

43 § 224. Public health and health planning council; secretary, employ-
44 ees. The commissioner upon request of the public health and health
45 planning council, shall designate an officer or employee of the depart-
46 ment to act as secretary of the public health and health planning coun-
47 cil, and shall assign from time to time such other employees as the
48 public health and health planning council may require.

49 § 208. Intentionally omitted.

50 § 209. The public health law is amended by adding a new section 224-b
51 to read as follows:

52 § 224-b. Public health and health planning council; powers and duties;
53 health care facilities and home care agencies. The public health and
54 health planning council shall have such powers and duties as are set
55 forth in this chapter, including the consideration of applications for
56 the establishment and construction of health care facilities and home

1 care agencies licensed under articles twenty-eight, thirty-six and forty
2 of this chapter. In carrying out its powers and duties, the council
3 shall take into account the impact of its actions and recommendations on
4 the quality, accessibility, efficiency and cost-effectiveness of health
5 care throughout the state.

6 § 210. The section heading and subdivisions 1, 2, 3, 4 and paragraphs
7 (a) and (m) of subdivision 5 of section 225 of the public health law,
8 subdivision 2 as added and subdivisions 3, 4 and paragraph (a) of subdivi-
9 sion 5 as renumbered by chapter 626 of the laws of 1971, subdivision 3
10 as amended by chapter 617 of the laws of 1970 and paragraph (m) of
11 subdivision 5 as amended by chapter 894 of the laws of 1958, are amended
12 to read as follows:

13 Public health and health planning council; powers and duties; sanitary
14 code. 1. The public health and health planning council shall, at the
15 request of the commissioner, consider any matter relating to the preser-
16 vation and improvement of public health, and may advise the commissioner
17 thereon; and it may, from time to time, submit to the commissioner, any
18 recommendations relating to the preservation and improvement of public
19 health.

20 2. The public health and health planning council shall appoint one or
21 more advisory committees expert in the major areas of public health
22 concern, including but not limited to health education, health manpower,
23 economics and delivery of health service, sanitation problems and inter-
24 professional relationships. Members of advisory committees need not be
25 members of the public health and health planning council.

26 3. The public health and health planning council shall have no execu-
27 tive, administrative or appointive duties except as otherwise provided
28 by law.

29 4. The public health and health planning council shall have power by
30 the affirmative vote of a majority of its members to establish, and from
31 time to time, amend and repeal sanitary regulations, to be known as the
32 sanitary code of the state of New York, subject to approval by the
33 commissioner.

34 (a) deal with any matters affecting the security of life or health or
35 the preservation and improvement of public health in the state of New
36 York, and with any matters as to which the jurisdiction is conferred
37 upon the public health and health planning council;

38 (m) require that application be made for a permit to operate a farm or
39 food processing labor camp as defined in the sanitary code; authorize
40 appropriate officers or agencies to issue such a permit when the appli-
41 cant is in compliance with the established regulations; prescribe stand-
42 ards for living quarters at farm and food processing labor camps,
43 including provisions for sanitary conditions; light, air, and safety;
44 protection from fire hazards; maintenance; and such other matters as may
45 be appropriate for security of life or health, provided however, that
46 the provisions of the sanitary code established pursuant to the
47 provisions hereof shall apply to all farm and food processing labor
48 camps intended to house migrant workers and which are occupied by five
49 or more persons. In the preparation of such regulations, the public
50 health and health planning council may request and shall receive techni-
51 cal assistance from the board of standards and appeals of the state
52 department of labor and the state building code commission. Such regu-
53 lation shall be enforced in the same manner as are other provisions of
54 the sanitary code;

55 § 211. Section 226 of the public health law is amended to read as
56 follows:

1 § 226. Sanitary code; filing and publication. 1. Every regulation
2 adopted by the public health and health planning council shall state the
3 date on which it takes effect, and a copy thereof, duly signed by the
4 secretary of the public health and health planning council, shall be
5 filed as a public record in the department and in the office of the
6 secretary of state.

7 2. A copy of every regulation adopted by the public health and health
8 planning council shall be sent by the commissioner to each health offi-
9 cer within the state, and shall be published in such manner as the
10 public health and health planning council may from time to time deter-
11 mine.

12 § 212. Subdivisions 1 and 2 of section 228 of the public health law,
13 as amended by chapter 626 of the laws of 1971, are amended to read as
14 follows:

15 1. The provisions of the sanitary code, unless otherwise stated by the
16 public health and health planning council, shall apply to and be effec-
17 tive in all portions of the state and shall supersede all local ordi-
18 nances heretofore or hereafter enacted inconsistent therewith.

19 2. Each county, city, town or village, in the manner hereinafter
20 prescribed, may enact sanitary regulations not inconsistent with the
21 sanitary code established by the public health and health planning coun-
22 cil.

23 § 213. Section 238 of the public health law is amended by adding a new
24 subdivision 17 to read as follows:

25 17. "Public health council" shall mean the public health and health
26 planning council.

27 § 214. Subdivision 3 of section 243 of the public health law, as added
28 by chapter 757 of the laws of 1992, and such section as renumbered by
29 chapter 443 of the laws of 1993, is amended to read as follows:

30 3. Meetings. a. The minority health council shall meet as frequently
31 as its business may require, and at least twice in each year.

32 b. The governor shall designate one of the members of the public
33 health and health planning council as its chair.

34 § 215. Section 2801 of the public health law is amended by adding a
35 new subdivision 11 to read as follows:

36 11. "Public health council" shall mean the public health and health
37 planning council.

38 § 216. Section 2801-a of the public health law, as amended by chapter
39 667 of the laws of 1997, subdivision 2-a as added by chapter 588 of the
40 laws of 1998, paragraph (c) of subdivision 4 as amended by chapter 538
41 of the laws of 1998, subdivision 15 as added by chapter 315 of the laws
42 of 2007, and subdivision 16 as added by section 86 of part C of chapter
43 58 of the laws of 2009, is amended to read as follows:

44 § 2801-a. Establishment or incorporation of hospitals. 1. No hospi-
45 tal, as defined in this article, shall be established except with the
46 written approval of the public health and health planning council. No
47 certificate of incorporation of a business membership or not-for-profit
48 corporation shall hereafter be filed which includes among its corporate
49 purposes or powers the establishment or operation of any hospital, as
50 defined in this article, or the solicitation of contributions for any
51 such purpose, or two or more of such purposes, except with the written
52 approval of the public health and health planning council, and when
53 otherwise required by law of a justice of the supreme court, endorsed on
54 or annexed to the certificate of incorporation. No articles of organiza-
55 tion of a limited liability company established pursuant to the New York
56 limited liability company law which includes among its powers or

1 purposes the establishment or operation of any hospital as defined in
2 this article, shall be filed with the department of state except upon
3 the approval of the public health and health planning council.

4 2. With respect to the incorporation or establishment of any hospital,
5 as defined in this article, the public health and health planning coun-
6 cil shall give written approval after all of the following requirements
7 have been met. An application for approval of the proposed certificate
8 of incorporation, articles of organization or establishment shall be
9 filed with the public health and health planning council together with
10 such other forms and information as shall be prescribed by, or accepta-
11 ble to, the public health and health planning council. Thereafter, the
12 public health and health planning council shall forward a copy of the
13 proposed certificate or application for establishment, and accompanying
14 documents, to [the state hospital review and planning council and] the
15 health systems agency, if any, having geographical jurisdiction of the
16 area where the proposed institution is to be located. The public health
17 and health planning council shall act upon such application after [the
18 state council and] the health systems agency [have] has had a reasonable
19 time to submit their recommendations. At the time members of the public
20 health and health planning council are notified that an application is
21 scheduled for consideration, the applicant and the health systems agency
22 shall be so notified in writing. The public health and health planning
23 council shall afford the applicant an opportunity to present information
24 in person concerning the application to a committee designated by the
25 council. The public health and health planning council shall not take
26 any action contrary to the advice of [either the state council or] the
27 health systems agency until it affords to [either] the health system's
28 agency an opportunity to request a public hearing and, if so requested,
29 a public hearing shall be held. If the public health and health planning
30 council proposes to disapprove the application it shall afford the
31 applicant an opportunity to request a public hearing. The public health
32 and health planning council may hold a public hearing on the application
33 on its own motion. Any public hearing held pursuant to this subdivision
34 may be conducted by the public health and health planning council, or by
35 any individual designated by the public health and health planning coun-
36 cil. Beginning on January first, nineteen hundred ninety-four, and each
37 year thereafter, a complete application received between January first
38 and June thirtieth of each year shall be reviewed by the appropriate
39 health systems agency and the department and presented to the [state
40 hospital review and] public health and health planning council for its
41 consideration prior to June thirtieth of the following year and a
42 complete application received between July first and December thirty-
43 first of each year shall be reviewed by the appropriate health systems
44 agency and the department presented to the state hospital review and
45 planning council for consideration prior to December thirty-first of the
46 following year.

47 2-a. (a) Notwithstanding any provision of law to the contrary, the
48 commissioner is authorized to approve a certificate of incorporation or
49 articles of organization for establishment of a hospital, provided that:
50 (i) the certificate of incorporation or articles of organization
51 reflects solely a change in the form of the business organization of an
52 existing entity which had been approved by the public health and health
53 planning council or its predecessor; and (ii) every incorporator, stock-
54 holder, member, director and sponsor of the new entity shall have been
55 an owner, partner, incorporator, stockholder, member, director or spon-
56 sor of the existing entity; and (iii) the distribution of ownership,

1 interests and voting rights in the new entity shall be the same as in
2 the existing entity; and (iv) there shall be no change in the operator
3 of a hospital other than the form of its business organization, as a
4 result of the approval of such certificate of incorporation or articles
5 of organization. Any approval by the public health and health planning
6 council of a person as an owner, incorporator, stockholder, member,
7 director or sponsor in the existing entity shall be deemed to be
8 approval for the same degree of participation in the new entity. If the
9 proposal is acceptable to the commissioner an amended operating certifi-
10 cate shall be issued. In the event the commissioner determines that the
11 proposed transfer is not approvable the application shall be referred to
12 the public health and health planning council for its review and action.
13 If the public health and health planning council proposes to disapprove
14 the application, it shall afford the applicant an opportunity to request
15 a public hearing and, if so requested, a public hearing shall be held.
16 Any public hearing held pursuant to this subdivision may be conducted by
17 the public health and health planning council, or by any individual
18 designated by the public health and health planning council.

19 3. The public health and health planning council shall not approve a
20 certificate of incorporation, articles of organization or application
21 for establishment unless it is satisfied, insofar as applicable, as to
22 (a) the public need for the existence of the institution at the time and
23 place and under the circumstances proposed, provided, however, that in
24 the case of an institution proposed to be established or operated by an
25 organization defined in subdivision one of section one hundred seventy-
26 two-a of the executive law, the needs of the members of the religious
27 denomination concerned, for care or treatment in accordance with their
28 religious or ethical convictions, shall be deemed to be public need; (b)
29 the character, competence, and standing in the community, of the
30 proposed incorporators, directors, sponsors, stockholders, members or
31 operators; with respect to any proposed incorporator, director, sponsor,
32 stockholder, member or operator who is already or within the past ten
33 years has been an incorporator, director, sponsor, member, principal
34 stockholder, principal member, or operator of any hospital, private
35 proprietary home for adults, residence for adults, or non-profit home
36 for the aged or blind which has been issued an operating certificate by
37 the state department of social services, or a halfway house, hostel or
38 other residential facility or institution for the care, custody or
39 treatment of the mentally disabled which is subject to approval by the
40 department of mental hygiene, no approval shall be granted unless the
41 public health and health planning council, having afforded an adequate
42 opportunity to members of health systems agencies having geographical
43 jurisdiction of the area where the institution is to be located to be
44 heard, shall affirmatively find by substantial evidence as to each such
45 incorporator, director, sponsor, principal stockholder or operator that
46 a substantially consistent high level of care is being or was being
47 rendered in each such hospital, home, residence, halfway house, hostel,
48 or other residential facility or institution with which such person is
49 or was affiliated; for the purposes of this paragraph, the public health
50 and health planning council shall adopt rules and regulations, subject
51 to the approval of the commissioner, to establish the criteria to be
52 used to determine whether a substantially consistent high level of care
53 has been rendered, provided, however, that there shall not be a finding
54 that a substantially consistent high level of care has been rendered
55 where there have been violations of the state hospital code, or other
56 applicable rules and regulations, that (i) threatened to directly affect



1 the health, safety or welfare of any patient or resident, and (ii) were
2 recurrent or were not promptly corrected; (c) the financial resources of
3 the proposed institution and its sources of future revenues; and (d)
4 such other matters as it shall deem pertinent.

5 3-a. Notwithstanding any other provisions of this chapter, the public
6 health council is hereby empowered to approve the establishment, for
7 demonstration purposes, of not more than one existing hospital within
8 the geographical jurisdiction of each health systems agency established
9 under the provisions of subdivision (c) of section twenty-nine hundred
10 four of this chapter. The purposes of such hospitals shall be to offer
11 and provide nursing home services, board and lodging to persons requir-
12 ing such services within one hospital. The public health council may
13 approve the establishment of such hospitals without regard to the
14 requirement of public need as set forth in subdivision three of this
15 section.

16 4. (a) Any change in the person who is the operator of a hospital
17 shall be approved by the public health and health planning council in
18 accordance with the provisions of subdivisions two and three of this
19 section. Notwithstanding any inconsistent provision of this paragraph,
20 any change by a natural person who is the operator of a hospital seeking
21 to transfer part of his or her interest in such hospital to another
22 person or persons so as to create a partnership shall be approved in
23 accordance with the provisions of paragraph (b) of this subdivision.

24 (b) (i) Any transfer, assignment or other disposition of ten percent
25 or more of an interest or voting rights in a partnership or limited
26 liability company, which is the operator of a hospital to a new partner
27 or member, shall be approved by the public health and health planning
28 council, in accordance with the provisions of subdivisions two and three
29 of this section, except that: (A) any such change shall be subject to
30 the approval by the public health and health planning council in accord-
31 ance with paragraph (b) of subdivision three of this section only with
32 respect to the new partner or member, and any remaining partners or
33 members who have not been previously approved for that facility in
34 accordance with such paragraph, and (B) such change shall not be subject
35 to paragraph (a) of subdivision three of this section.

36 (ii) With respect to a transfer, assignment or disposition involving
37 less than ten percent of an interest or voting rights in such partner-
38 ship or limited liability company to a new partner or member, no prior
39 approval of the public health and health planning council shall be
40 required. However, no such transaction shall be effective unless at
41 least ninety days prior to the intended effective date thereof, the
42 partnership or limited liability company fully completes and files with
43 the public health and health planning council notice on a form, to be
44 developed by the public health and health planning council, which shall
45 disclose such information as may reasonably be necessary for the public
46 health and health planning council to determine whether it should bar
47 the transaction for any of the reasons set forth in item (A), (B), (C)
48 or (D) below. Within ninety days from the date of receipt of such
49 notice, the public health and health planning council may bar any trans-
50 action under this subparagraph: (A) if the equity position of the part-
51 nership or limited liability company, determined in accordance with
52 generally accepted accounting principles, would be reduced as a result
53 of the transfer, assignment or disposition; (B) if the transaction would
54 result in the ownership of a partnership or membership interest by any
55 persons who have been convicted of a felony described in subdivision
56 five of section twenty-eight hundred six of this article; (C) if there

1 are reasonable grounds to believe that the proposed transaction does not
2 satisfy the character and competence criteria set forth in subdivision
3 three of this section; or (D) if the transaction, together with all
4 transactions under this subparagraph for the partnership, or successor,
5 during any five year period would, in the aggregate, involve twenty-five
6 percent or more of the interest in the partnership. The public health
7 and health planning council shall state specific reasons for barring any
8 transaction under this subparagraph and shall so notify each party to
9 the proposed transaction.

10 (iii) With respect to a transfer, assignment or disposition of an
11 interest or voting rights in such partnership or limited liability
12 company to any remaining partner or member, which transaction involves
13 the withdrawal of the transferor from the partnership or limited liabil-
14 ity company, no prior approval of the public health and health planning
15 council shall be required. However, no such transaction shall be effec-
16 tive unless at least ninety days prior to the intended effective date
17 thereof, the partnership or limited liability company fully completes
18 and files with the public health and health planning council notice on a
19 form, to be developed by the public health and health planning council,
20 which shall disclose such information as may reasonably be necessary for
21 the public health and health planning council to determine whether it
22 should bar the transaction for the reason set forth below. Within nine-
23 ty days from the date of receipt of such notice, the public health and
24 health planning council may bar any transaction under this subparagraph
25 if the equity position of the partnership or limited liability company,
26 determined in accordance with generally accepted accounting principles,
27 would be reduced as a result of the transfer, assignment or disposition.
28 The public health and health planning council shall state specific
29 reasons for barring any transaction under this subparagraph and shall so
30 notify each party to the proposed transaction.

31 (c) Any transfer, assignment or other disposition of ten percent or
32 more of the stock or voting rights thereunder of a corporation which is
33 the operator of a hospital or which is a member of a limited liability
34 company which is the operator of a hospital to a new stockholder, or any
35 transfer, assignment or other disposition of the stock or voting rights
36 thereunder of such a corporation which results in the ownership or
37 control of more than ten percent of the stock or voting rights there-
38 under of such corporation by any person not previously approved by the
39 public health and health planning council, or its predecessor, for that
40 corporation shall be subject to approval by the public health and health
41 planning council, in accordance with the provisions of subdivisions two
42 and three of this section and rules and regulations pursuant thereto;
43 except that: any such transaction shall be subject to the approval by
44 the public health and health planning council in accordance with para-
45 graph (b) of subdivision three of this section only with respect to a
46 new stockholder or a new principal stockholder; and shall not be subject
47 to paragraph (a) of subdivision three of this section. In the absence of
48 such approval, the operating certificate of such hospital shall be
49 subject to revocation or suspension. No prior approval of the public
50 health and health planning council shall be required with respect to a
51 transfer, assignment or disposition of ten percent or more of the stock
52 or voting rights thereunder of a corporation which is the operator of a
53 hospital or which is a member of a limited liability company which is
54 the owner of a hospital to any person previously approved by the public
55 health and health planning council, or its predecessor, for that corpo-
56 ration. However, no such transaction shall be effective unless at least

1 ninety days prior to the intended effective date thereof, the stockhold-
2 er completes and files with the public health and health planning coun-
3 cil notice on forms to be developed by the public health and health
4 planning council, which shall disclose such information as may reason-
5 ably be necessary for the public health and health planning council to
6 determine whether it should bar the transaction. Such transaction will
7 be final as of the intended effective date unless, prior thereto, the
8 public health and health planning council shall state specific reasons
9 for barring such transactions under this paragraph and shall notify each
10 party to the proposed transaction. Nothing in this paragraph shall be
11 construed as permitting a person not previously approved by the public
12 health and health planning council for that corporation to become the
13 owner of ten percent or more of the stock of a corporation which is the
14 operator of a hospital or which is a member of a limited liability
15 company which is the owner of a hospital without first obtaining the
16 approval of the public health and health planning council.

17 (d) No hospital shall be approved for establishment which would be
18 operated by a limited partnership, or by a partnership any of the
19 members of which are not natural persons.

20 (e) No hospital shall be approved for establishment which would be
21 operated by a corporation any of the stock of which is owned by another
22 corporation or a limited liability company if any of its corporate
23 members' stock is owned by another corporation.

24 (f) No corporation shall be a member of a limited liability company
25 authorized to operate a hospital unless its proposed incorporators,
26 directors, stockholders or principal stockholders shall have been
27 approved in accordance with the provisions of subdivision three of this
28 section applicable to the approval of the proposed incorporators, direc-
29 tors or stockholders of any other corporation requiring approval for
30 establishment.

31 (g) A natural person appointed as trustee of an express testamentary
32 trust, created by a deceased sole proprietor, partner or shareholder in
33 the operation of a hospital for the benefit of a person of less than
34 twenty-five years of age, may, as the trustee, apply pursuant to subdi-
35 vision two of this section for approval to operate or participate in the
36 operation of a facility or interest therein which is included in the
37 corpus of such trust until such time as all beneficiaries attain the age
38 of twenty-five, unless the trust instrument provides for earlier termi-
39 nation, or such beneficiaries receive establishment approval in their
40 own right, or until a transfer of the trust corpus is approved by the
41 public health and health planning council, in accordance with this
42 subdivision and subdivisions two and three of this section, whichever
43 first occurs. The public health and health planning council shall not
44 approve any such application unless it is satisfied as to:

45 (i) the character, competence and standing in the community of each
46 proposed trustee operator pursuant to the provisions of paragraph (b) of
47 subdivision three of this section; and

48 (ii) the ability of the trustee under the terms of the trust instru-
49 ment to operate or participate in the operation of the hospital in a
50 manner consistent with this chapter and regulations promulgated pursuant
51 thereto.

52 (h) A natural person appointed conservator pursuant to article eight-
53 y-one of the mental hygiene law, or a natural person appointed committee
54 of the property of an incompetent pursuant to article eighty-one of the
55 mental hygiene law or a sole proprietor, partner or shareholder of a
56 hospital, may apply pursuant to subdivision two of this section for

1 approval to operate a hospital owned by the conservatee or incompetent
2 for a period not exceeding two years or until a transfer of the hospital
3 is approved by the public health and health planning council in accord-
4 ance with subdivisions two and three of this section, whichever occurs
5 first. The public health and health planning council shall not approve
6 any such application unless it is satisfied as to:

7 (i) the character, competence and standing in the community of the
8 proposed conservator operator or committee operator pursuant to the
9 provisions of paragraph (b) of subdivision three of this section; and

10 (ii) the ability of the conservator or committee under the terms of
11 the court order to operate the hospital in a manner consistent with this
12 chapter and regulations promulgated pursuant thereto.

13 5. Except as otherwise hereinafter provided, no county, city, town,
14 village or other governmental subdivision shall establish or create any
15 agency concerned with the establishment of any hospital as defined in
16 this article without securing the written approval of the public health
17 and health planning council in accordance with the requirements and
18 procedures of subdivisions two and three of this section with respect to
19 certificates of incorporation, articles of organization and establish-
20 ment, except that the requirements relating to the proposed incorpora-
21 tors, directors and sponsors shall not apply. The preceding shall not
22 apply to the establishment of state hospitals by the state of New York
23 or to the establishment of municipal hospitals by the city of New York.

24 6. No corporation having power to solicit contributions for charitable
25 purposes shall be deemed to have authority to solicit contributions for
26 any purpose for which the approval of the public health and health plan-
27 ning council is required, unless the certificate of incorporation
28 specifically makes provision therefor, and the written approval of the
29 public health and health planning council is endorsed on or annexed to
30 such certificate.

31 7. Where such approval has not been obtained the public health and
32 health planning council may institute and maintain an action in the
33 supreme court through the attorney general to procure a judgment
34 dissolving and vacating or annulling the certificate of incorporation of

35 (a) any such corporation, or

36 (b) any corporation hereafter incorporated, the name, purposes,
37 objects or the activities of which in any manner may lead to the belief
38 that the corporation possesses or may exercise any of such purposes.

39 8. No corporation heretofore formed, having among its powers the power
40 to solicit contributions for charitable purposes, may solicit or contin-
41 ue to solicit contributions for a purpose for which the approval of the
42 public health and health planning council is required without the writ-
43 ten approval of the public health and health planning council, except:

44 (a) a corporation which, prior to June first, nineteen hundred seventy,
45 had received the approval of the state board of social welfare of a
46 certificate of incorporation containing such power; or (b) a corpo-
47 ration, which prior to December first, two thousand ten, had received
48 the approval of the public health and health planning council of a
49 certificate of incorporation containing such power. If such approval is
50 not obtained and the corporation continues to solicit or to receive
51 contributions for such purpose or advertises that it has obtained such
52 approval, the public health and health planning council may institute
53 and maintain an action in the supreme court through the attorney general
54 to procure a judgment dissolving and vacating or annulling the certif-
55 icate of incorporation of any such corporation.

1 9. Only a natural person, a partnership or limited liability company
2 may hereafter undertake to engage in the business of operating or
3 conducting a hospital, as defined in this article, for profit, except
4 that: (a) a person, partnership or corporation which owned and was oper-
5 ating a hospital on April fourth, nineteen hundred fifty-six, may
6 continue to own and operate such hospital; (b) a business corporation
7 may, with the approval of the public health council, and in accordance
8 with the provisions of subdivisions two and three of this section,
9 undertake to engage in the business of operating or conducting a hospi-
10 tal, as defined in this article for profit, provided that such corpo-
11 ration shall not discriminate because of race, color, creed, national
12 origin or sponsor in admission or retention of patients; (c) a business
13 corporation owning and operating a nursing home on May twenty-second,
14 nineteen hundred sixty-nine, in accordance with applicable provisions of
15 law, may continue to own and operate such nursing home; (d) a person
16 who, or a partnership which, is operating a private proprietary nursing
17 home in accordance with applicable provisions of law may, with the
18 approval of the public health and health planning council, and in
19 accordance with the provisions of subdivision three of this section and
20 any rules and regulations thereunder form a business corporation to
21 engage in the business of operating or conducting such nursing home,
22 provided, however, that such corporation shall not discriminate because
23 of race, color, creed, national origin or sponsor in admission or
24 retention of patients; (e) a business corporation operating a nursing
25 home, which corporation was formed with the approval of the state board
26 of social welfare, may continue to own and operate such nursing home.

27 10. (a) The public health and health planning council, by a majority
28 vote of its members, shall adopt and amend rules and regulations, to
29 effectuate the provisions and purposes of this section, and to provide
30 for the revocation, limitation or annulment of approvals of establish-
31 ment.

32 (b) (i) No approval of establishment shall be revoked, limited or
33 annulled without first offering the person who received such approval
34 the opportunity of requesting a public hearing. (ii) The commissioner,
35 at the request of the public health and health planning council, shall
36 fix a time and place for any such hearing requested. (iii) Notice of the
37 time and place of the hearing shall be served in person or mailed by
38 registered mail to the person who has received establishment approval at
39 least twenty-one days before the date fixed for the hearing. (iv) Such
40 person shall file with the department, not less than eight days prior to
41 the hearing, a written answer. (v) All orders or determinations here-
42 under shall be subject to review as provided in article seventy-eight of
43 the civil practice law and rules. Application for such review must be
44 made within sixty days after service in person or by registered mail of
45 a copy of such order or determination.

46 11. Any person filing a proposed certificate of incorporation, arti-
47 cles of organization or an application for establishment of a residen-
48 tial health care facility for approval of the public health and health
49 planning council shall file with the commissioner such information on
50 the ownership of the property interests in such facility as shall be
51 prescribed by regulation, including the following:

52 (a) The name and address and a description of the interest held by
53 each of the following persons:

54 (i) any person, who directly or indirectly, beneficially owns any
55 interest in the land on which the facility is located;



1 (ii) any person who, directly or indirectly, beneficially owns any
2 interest in the building in which the facility is located;

3 (iii) any person who, directly or indirectly, beneficially owns any
4 interest in any mortgage, note, deed of trust or other obligation
5 secured in whole or in part by the land on which or building in which
6 the facility is located; and

7 (iv) any person who, directly or indirectly, has any interest as
8 lessor or lessee in any lease or sub-lease of the land on which or the
9 building in which the facility is located.

10 (b) If any person named in response to paragraph (a) of this subdivi-
11 sion is a partnership or limited liability company, then the name and
12 address of each partner or member.

13 (c) If any person named in response to paragraph (a) of this subdivi-
14 sion is a corporation, other than a corporation whose shares are traded
15 on a national securities exchange or are regularly quoted in an over-
16 the-counter market or which is a commercial bank, savings bank or
17 savings and loan association, then the name and address of each officer,
18 director, stockholder and, if known, each principal stockholder and
19 controlling person of such corporation.

20 (d) If any corporation named in response to paragraph (a) of this
21 subdivision is a corporation whose shares are traded on a national secu-
22 rities exchange or are regularly quoted in an over-the-counter market or
23 which is a commercial bank, savings bank or savings and loan associ-
24 ation, then the name and address of the principal executive officers and
25 each director and, if known, each principal stockholder of such corpo-
26 ration.

27 12. The following definitions shall be applicable to this section:

28 (a) "Controlling person" of any corporation, partnership, limited
29 liability company or other entity means any person who by reason of a
30 direct or indirect ownership interest (whether of record or beneficial)
31 has the ability, acting either alone or in concert with others with
32 ownership or membership interests, to direct or cause the direction of
33 the management or policies of said corporation, partnership, limited
34 liability company or other entity. Neither the commissioner nor any
35 employee of the department nor any member of a local legislative body of
36 a county or municipality, nor any county or municipal official except
37 when acting as the administrator of a residential health care facility,
38 shall, by reason of his or her official position, be deemed a control-
39 ling person of any corporation, partnership, limited liability company
40 or other entity, nor shall any person who serves as an officer, adminis-
41 trator or other employee of any corporation, partnership, limited
42 liability company or other entity or as a member of a board of directors
43 or trustees of any corporation be deemed to be a controlling person of
44 such corporation, partnership, limited liability company or other entity
45 as a result of such position or his or her official actions in such
46 position.

47 (b) "Principal stockholder" of a corporation means any person who
48 beneficially owns, holds or has the power to vote, ten percent or more
49 of any class of securities issued by said corporation.

50 (c) "Principal member" of a limited liability company means any person
51 who beneficially owns, holds or has the power to vote, ten percent or
52 more interest determined by such member's share in the current profits
53 of the limited liability company.

54 13. Any person who operates a hospital without the written approval of
55 the public health and health planning council shall be liable to the

1 people of the state for a civil penalty not to exceed ten thousand
2 dollars for every such violation.

3 14. (a) The public health and health planning council may approve the
4 establishment of not-for-profit rural health networks as defined in
5 article twenty-nine-A of this chapter, pursuant to the provisions of
6 subdivisions two and three of this section, except that the public
7 health and health planning council shall not consider the public need
8 for and financial resources and sources of future revenues of such
9 networks which do not seek approval to operate a hospital. In addition
10 to character and competence, the public health and health planning coun-
11 cil may take into consideration available network plans.

12 (b) The board of directors or trustees of a not-for-profit rural
13 health network shall be comprised of a representative or representatives
14 of participating providers and members of the general public residing in
15 the area served by such network.

16 15. (a) Diagnostic or treatment centers established exclusively to
17 provide end stage renal disease services may be operated by corporations
18 formed under the laws of New York whose stockholders or members, as
19 applicable, are not natural persons if such corporations and their prin-
20 cipal stockholders and members, as applicable, and controlling persons
21 comply with all applicable requirements of this section and demonstrate,
22 to the satisfaction of the public health and health planning council,
23 sufficient experience and expertise in delivering high quality end stage
24 renal disease care. For purposes of this subdivision, the public health
25 and health planning council shall adopt and amend rules and regulations,
26 notwithstanding any inconsistent provision of this section, to address
27 any matter it deems pertinent to the establishment and operation of
28 diagnostic or treatment centers pursuant to this subdivision; provided
29 that such rules and regulations shall include, but not be limited to
30 provisions governing or relating to: (i) any direct or indirect changes
31 or transfers of ownership interests or voting rights in such corpo-
32 rations or their stockholders or members, as applicable, and provide for
33 public health council approval of any change in controlling interests,
34 principal stockholders, controlling persons, parent company or sponsors;
35 (ii) oversight of the operator and its stockholders or members, as
36 applicable, including local governance of the diagnostic or treatment
37 centers; and (iii) relating to the character and competence and quali-
38 fications of, and changes relating to, the directors and officers of the
39 operator and its principal stockholders, controlling persons, parent
40 company or sponsors.

41 (b) The following provisions of this section shall not apply to diag-
42 nostic or treatment centers operated pursuant to this subdivision: (i)
43 paragraph (b) of subdivision three of this section, relating to stock-
44 holders and members; (ii) paragraph (c) of subdivision four of this
45 section, relating to the disposition of stock or voting rights; and
46 (iii) paragraph (e) of subdivision four of this section, relating to the
47 ownership of stock or membership.

48 16. (a) The commissioner shall charge to applicants for the establish-
49 ment of hospitals the following application fee:

50 (i) For general hospitals:	\$3,000
51 (ii) For nursing homes:	\$3,000
52 (iii) For safety net diagnostic and treatment centers	
53 as defined in paragraph (c) of this subdivision:	\$1,000
54 (iv) For all other diagnostic and treatment centers:	\$2,000

55 (b) An applicant for both establishment and construction of a hospital
56 shall not be subject to this subdivision and shall be subject to fees

1 and charges as set forth in section twenty-eight hundred two of this
2 article.

3 (c) The commissioner may designate a diagnostic and treatment center
4 or proposed diagnostic and treatment center as a "safety net diagnostic
5 and treatment center" if it is operated or proposes to be operated by a
6 not-for-profit corporation or local health department; participates or
7 intends to participate in the medical assistance program; demonstrates
8 or projects that a significant percentage of its visits, as determined
9 by the commissioner, were by uninsured individuals; and principally
10 provides primary care services as defined by the commissioner.

11 (d) The fees and charges paid by an applicant pursuant to this subdi-
12 vision for any application for establishment of a hospital approved in
13 accordance with this section shall be deemed allowable capital costs in
14 the determination of reimbursement rates established pursuant to this
15 article. The cost of such fees and charges shall not be subject to
16 reimbursement ceiling or other penalties used by the commissioner for
17 the purpose of establishing reimbursement rates pursuant to this arti-
18 cle. All fees pursuant to this section shall be payable to the depart-
19 ment of health for deposit into the special revenue funds - other,
20 miscellaneous special revenue fund - 339, certificate of need account.

21 § 217. Subdivisions 1, 2, 2-b, 3-a and 3-c of section 2802 of the
22 public health law, subdivision 1 as amended by chapter 470 of the laws
23 of 1976, subdivision 2 as amended by chapter 609 of the laws of 1982,
24 subdivision 2-b as added by chapter 731 of the laws of 1993, subdivision
25 3-a as added by chapter 376 of the laws of 1992, and subdivision 3-c as
26 added by chapter 97 of the laws of 1993, are amended to read as follows:

27 1. An application for such construction shall be filed with the
28 department, together with such other forms and information as shall be
29 prescribed by, or acceptable to, the department. Thereafter the depart-
30 ment shall forward a copy of the application and accompanying documents
31 to the [state hospital review and] public health and health planning
32 council and the health systems agency, if any, having geographical
33 jurisdiction of the area where the hospital is located.

34 2. The commissioner shall not act upon an application for construction
35 of a hospital until the [state hospital review and] public health and
36 health planning council and the health systems agency have had a reason-
37 able time to submit their recommendations, and unless (a) the applicant
38 has obtained all approvals and consents required by law for its incorpo-
39 ration or establishment (including the approval of the public health and
40 health planning council pursuant to the provisions of this article)
41 provided, however, that the commissioner may act upon an application for
42 construction by an applicant possessing a valid operating certificate
43 when the application qualifies for review without the recommendation of
44 the council pursuant to regulations adopted by the council and approved
45 by the commissioner; and (b) the commissioner is satisfied as to the
46 public need for the construction, at the time and place and under the
47 circumstances proposed, provided however that, in the case of an appli-
48 cation by a hospital established or operated by an organization defined
49 in subdivision one of section [four hundred eighty-two-a] four hundred
50 eighty-two-b of the social services law, the needs of the members of the
51 religious denomination concerned, for care or treatment in accordance
52 with their religious or ethical convictions, shall be deemed to be
53 public need.

54 2-b. Beginning on January first, nineteen hundred ninety-four, and
55 each year thereafter, a complete application received between January
56 first and June thirtieth of each year shall be reviewed by the appropri-

1 ate health systems agency and the department and presented to the [state
2 hospital review and] public health and health planning council for its
3 consideration prior to June thirtieth of the following year and a
4 complete application received between July first and December thirty-
5 first of each year shall be reviewed by the appropriate health systems
6 agency and the department and presented to the [state hospital review
7 and] public health and health planning council for consideration prior
8 to December thirty-first of the following year.

9 3-a. Review of applications from hospitals in epidemic areas and
10 hospitals serving state correctional facilities to renovate or provide
11 for capital improvement for the purpose of controlling the spread of
12 tuberculosis infection may be approved by the commissioner, who to the
13 extent practicable may, but shall not be required to, consider the
14 recommendations of the health systems agency and the [state hospital
15 review and] public health and health planning council for applications
16 for which he grants approval. In such cases the commissioner shall take
17 further measures necessary to expedite departmental reviews for such
18 approval.

19 3-c. An application shall state the proposed site or location of the
20 proposed construction. Where the applicant changes the site or location
21 after approval of the application, the commissioner may, subject to
22 regulations under this article, approve the change upon a finding that
23 the change is in the best interest of the service area. In making such
24 determination, the commissioner may seek a review of the proposed change
25 by the [state hospital review and] public health and health planning
26 council and the health systems agency having geographical jurisdiction.

27 § 218. Paragraph (a) of subdivision 2 of section 2802-a of the public
28 health law, as added by section 87 of part B of chapter 58 of the laws
29 of 2005, is amended to read as follows:

30 (a) The commissioner shall act upon such applications in a manner
31 consistent with section twenty-eight hundred two of this article
32 provided that the commissioner may not waive review and recommendation
33 by the [state hospital review and] public health and health planning
34 council. In the [state hospital review and] public health and health
35 planning council's evaluation of applications and the commissioner
36 acting upon such applications, priority shall be given to applicants who
37 have a memorandum of understanding or other cooperative agreement with
38 one or more skilled nursing facilities located within their service
39 area. Further, in the [state hospital review and] public health and
40 health planning council evaluating applications and the commissioner
41 acting upon such applications, consideration shall also be given to the
42 geographic distribution of applicants throughout the state, so that
43 applications may be approved from the various geographic regions of the
44 state.

45 § 219. Subdivisions (a), (b), (e), (f) and (k) of section 2904 of the
46 public health law are REPEALED and subdivisions (g) and (h), as amended
47 by chapter 470 of the laws of 1976, are amended to read as follows:

48 (g) [The council and any] Any health systems agency, with respect to
49 any of the matters with which [they] it may deal may hold such public
50 hearings as [they] it may deem appropriate and may require the
51 submission of such information and documents as [they] it may deem
52 appropriate.

53 (h) The members [of the council or] of any health systems agency shall
54 receive no compensation for their services but shall be reimbursed for
55 expenses actually and necessarily incurred in the performance of their
56 duties.

1 § 220. Section 3602 of the public health law is amended by adding a
2 new subdivision 16 to read as follows:

3 16. "Public health council" shall mean the public health and health
4 planning council.

5 § 221. Subdivisions 2, 3 and 4 of section 3605 of the public health
6 law as added by chapter 959 of the laws of 1984, are amended to read as
7 follows:

8 2. The commissioner shall not issue a license to any home care
9 services agency except with the written approval of the public health
10 and health planning council issued pursuant to the provisions of this
11 section.

12 3. An application for licensure as a home care services agency shall
13 be filed with the public health and health planning council together
14 with such other forms and information as shall be prescribed by, or
15 acceptable to, the public health and health planning council. Thereaft-
16 er, the public health and health planning council shall forward for
17 comment, if any, a copy of the application for licensure and accompan-
18 ing documents to the [state hospital review and planning council and
19 the] health systems agency, if any, having geographical jurisdiction of
20 the area where the services of the proposed agency are to be offered.
21 The public health and health planning council shall act upon such appli-
22 cation, after the [state hospital review and planning council and the]
23 health systems agency [have] has had reasonable time to submit [their]
24 its comments, based solely upon criteria provided for in subdivision
25 four of this section. If the public health and health planning council
26 proposes to disapprove the application, it shall notify the applicant,
27 provide reasons for disapproval and afford the applicant a hearing on
28 the application, if requested, or on its own motion. Any hearing held
29 pursuant to this subdivision may be conducted by the public health and
30 health planning council or by any individual designated by the public
31 health and health planning council.

32 4. The public health and health planning council shall not approve an
33 application for licensure unless it is satisfied as to the character,
34 competence and standing in the community of the applicant's incorpora-
35 tors, directors, sponsors, stockholders or operators.

36 § 222. Subdivisions 1 and 2 of section 3606 of the public health law,
37 as amended by chapter 959 of the laws of 1984, are amended to read as
38 follows:

39 1. The commissioner shall not issue a certificate of approval to any
40 home care services agency except with the written approval of the public
41 health and health planning council. However, a residential health care
42 facility or hospital making application to the commissioner solely for
43 authorization to provide a long term home health care program shall be
44 deemed to have met such requirement, provided that the facility or
45 hospital possesses a valid operating certificate under article twenty-
46 eight of this chapter.

47 2. An application for approval of the proposed certified home health
48 agency shall be filed with the public health and health planning council
49 together with such other forms and information as shall be prescribed
50 by, or acceptable to, the public health and health planning council.
51 Thereafter, the public health and health planning council shall forward
52 a copy of the proposed application for establishment and accompanying
53 documents to the [state hospital review and planning council and the]
54 health systems agency, if any, having geographical jurisdiction of the
55 area where the services of the proposed certified home health agency are
56 to be offered. The public health and health planning council shall act

1 upon such application after the [state hospital review and planning
2 council and the] health systems agency [have] has had a reasonable time
3 to submit [their] its recommendations. At the time members of the public
4 health and health planning council are notified that an application is
5 scheduled for consideration, the applicant and the health systems agency
6 shall be so notified in writing. The public health and health planning
7 council shall not take any action contrary to the advice of [either the
8 state hospital review and planning council or] the health systems agency
9 until it affords to [either] the health systems agency an opportunity to
10 request a public hearing and, if so requested, a public hearing shall be
11 held. If the public health and health planning council proposes to
12 disapprove the application it shall afford the applicant an opportunity
13 to request a public hearing. The public health and health planning coun-
14 cil may hold a public hearing on the application on its own motion. Any
15 public hearing held pursuant to this subdivision may be conducted by the
16 public health and health planning council or by any individual desig-
17 nated by the public health and health planning council.

18 The public health and health planning council shall not approve an
19 application for establishment unless it is satisfied, insofar as appli-
20 cable, as to (a) the public need for the existence of the certified home
21 health agency at the time and place and under the circumstances
22 proposed; (b) the character, competence, and standing in the community,
23 of the proposed incorporators, directors and sponsors; (c) the financial
24 resources of the proposed certified home health agency and its sources
25 of future revenues; and (d) such other matters as it shall deem perti-
26 nent.

27 Neither the tax status nor profit-making status of proposed certified
28 home health agencies shall be criteria for establishment.

29 § 223. Subdivisions 2 and 3 of section 3606-a of the public health
30 law, as added by chapter 576 of the laws of 1981, are amended to read as
31 follows:

32 2. An application for such construction shall be filed with the
33 department, together with such other forms and information as shall be
34 prescribed by, or acceptable to, the department. Thereafter the depart-
35 ment shall forward a copy of the application and accompanying documents
36 to the [state hospital review and planning council] public health and
37 health planning council and the health systems agency, if any, having
38 geographical jurisdiction of the area where the agency is located.

39 3. The commissioner shall not act upon an application for construction
40 unless (a) the applicant has obtained all approvals and consents
41 required by law for its incorporation or establishment (including the
42 approval of the public health and health planning council pursuant to
43 the provisions of this article) and until the [state hospital review and
44 planning] public health and health planning council and the health
45 systems agency, if any, concerned have had a reasonable time to submit
46 their recommendations; and (b) the commissioner is satisfied as to the
47 public need for the construction, at the time and place and under the
48 circumstances proposed.

49 § 224. Subdivision 2 of section 3610 of the public health law, as
50 amended by chapter 433 of the laws of 1980, is amended to read as
51 follows:

52 2. A hospital, residential health care facility, or certified home
53 health agency seeking authorization to provide a long term home health
54 care program shall transmit to the commissioner an application setting
55 forth the scope of the proposed program. Such application shall be in a
56 format and shall be submitted in a quantity determined by the commis-

1 sioner. The commissioner shall transmit the application to the [state
2 hospital review and planning council] public health and health planning
3 council and to the health systems agency, if any, having geographic
4 jurisdiction of the area where the proposed program is to be located.
5 The application shall include a detailed description of the proposed
6 program including, but not limited to, the following:

- 7 (a) an outline of the institution's or agency's plans for the program;
- 8 (b) the need for the proposed program;
- 9 (c) the number and types of personnel to be employed;
- 10 (d) the ability of the agency, hospital, or facility to provide the
11 program;
- 12 (e) the estimated number of visits to be provided;
- 13 (f) the geographic area in which the proposed programs will be
14 provided;
- 15 (g) any special or unusual services, programs, or equipment to be
16 provided;
- 17 (h) a demonstration that the proposed program is feasible and adequate
18 in terms of both short range and long range goals;
- 19 (i) such other information as the commissioner may require.

20 The health systems agency and the [state hospital review and planning
21 council] public health and health planning council shall review the
22 application and submit their recommendations to the commissioner. At the
23 time members of the [state hospital review and planning council] public
24 health and health planning council are notified that an application is
25 scheduled for consideration, the applicant and the health systems agency
26 shall be so notified in writing. The health systems agency or the
27 [state hospital review and planning council] public health and health
28 planning council shall not recommend approval of the application unless
29 it is satisfied as to:

- 30 (a) the public need for the program at the time and place and under
31 the circumstances proposed;
- 32 (b) the financial resources of the provider of the proposed program
33 and its sources of future revenues;
- 34 (c) the ability of the proposed program to meet those standards estab-
35 lished for participation as a home health agency under title XVIII of
36 the federal Social Security Act; and
- 37 (d) such other matters as it shall deem pertinent.

38 After receiving and considering the recommendations of the [state
39 hospital review and planning council] public health and health planning
40 council and the health systems agency, the commissioner shall make his
41 or her determination. The commissioner shall act upon an application
42 after the [state hospital review and planning council] public health and
43 health planning council and the health systems agency have had a reason-
44 able time to submit their recommendations. The commissioner shall not
45 take any action contrary to the advice of either until he or she affords
46 to either an opportunity to request a public hearing and, if so
47 requested, a public hearing shall be held. The commissioner shall not
48 approve the application unless he or she is satisfied as to the detailed
49 description of the proposed program and

- 50 (a) the public need for the existence of the program at the time and
51 place and under the circumstances proposed;
- 52 (b) the financial resources of the provider of the proposed program
53 and its sources of future revenues;
- 54 (c) the ability of the proposed program to meet those standards estab-
55 lished for participation as a home health agency under title XVIII of
56 the federal Social Security Act; and

1 (d) such other matters as he or she shall deem pertinent.

2 If the application is approved, the applicant shall be so notified in
3 writing. The commissioner's written approval of the application shall
4 constitute authorization to provide a long term home health care
5 program. In making his or her authorization, the commissioner shall
6 stipulate the maximum number of persons which a provider of a long term
7 home health care program may serve. If the commissioner proposes to
8 disapprove the application, he or she shall notify the applicant in
9 writing, stating his or her reasons for disapproval, and afford the
10 applicant an opportunity for a public hearing.

11 § 225. Subdivision 2 of section 3611 of the public health law, as
12 added by chapter 959 of the laws of 1984, is amended to read as follows:

13 2. The public health and health planning council shall not act upon an
14 application for licensure or a certificate of approval for any agency
15 referred to in paragraph one of this section unless it is satisfied as
16 to the character, competence and standing in the community of the
17 proposed incorporators, directors, sponsors, controlling persons, prin-
18 cipal stockholders of the parent corporation, health related subsidiary
19 corporation and the New York state corporation established pursuant to
20 paragraph (a) of subdivision one of this section. For the purposes of
21 this section the public health and health planning council may adopt
22 rules and regulations relative to what constitutes parent and subsidiary
23 corporations.

24 § 226. Subdivisions 1 and 2 of section 3611-a of the public health
25 law, as amended by section 92 of part C of chapter 58 of the laws of
26 2009, are amended to read as follows:

27 1. Any change in the person who, or any transfer, assignment, or other
28 disposition of an interest or voting rights of ten percent or more, or
29 any transfer, assignment or other disposition which results in the
30 ownership or control of an interest or voting rights of ten percent or
31 more, in a limited liability company or a partnership which is the oper-
32 ator of a licensed home care services agency or a certified home health
33 agency shall be approved by the public health and health planning coun-
34 cil, in accordance with the provisions of subdivision four of section
35 thirty-six hundred five of this article relative to licensure or subdi-
36 vision two of section thirty-six hundred six of this article relative to
37 certificate of approval, except that:

38 (a) Public health and health planning council approval shall be
39 required only with respect to the person, or the member or partner that
40 is acquiring the interest or voting rights; and

41 (b) With respect to certified home health agencies, such change shall
42 not be subject to the public need assessment described in paragraph (a)
43 of subdivision two of section thirty-six hundred six of this article.

44 (c) No prior approval of the public health and health planning council
45 shall be required with respect to a transfer, assignment or disposition
46 of:

47 (i) an interest or voting rights to any person previously approved by
48 the public health and health planning council, or its predecessor, for
49 that operator; or

50 (ii) an interest or voting rights of less than ten percent in the
51 operator. However, no such transaction shall be effective unless at
52 least ninety days prior to the intended effective date thereof, the
53 partner or member completes and files with the public health and health
54 planning council notice on forms to be developed by the public health
55 council, which shall disclose such information as may reasonably be
56 necessary for the public health and health planning council to determine

1 whether it should bar the transaction. Such transaction will be final as
2 of the intended effective date unless, prior thereto, the public health
3 and health planning council shall state specific reasons for barring
4 such transactions under this paragraph and shall notify each party to
5 the proposed transaction.

6 2. Any transfer, assignment or other disposition of ten percent or
7 more of the stock or voting rights thereunder of a corporation which is
8 the operator of a licensed home care services agency or a certified home
9 health agency, or any transfer, assignment or other disposition of the
10 stock or voting rights thereunder of such a corporation which results in
11 the ownership or control of more than ten percent of the stock or voting
12 rights thereunder of such corporation by any person shall be subject to
13 approval by the public health and health planning council in accordance
14 with the provisions of subdivision four of section thirty-six hundred
15 five of this article relative to licensure or subdivision two of section
16 thirty-six hundred six of this article relative to certificate of
17 approval, except that:

18 (a) Public health [council] and health planning council's approval
19 shall be required only with respect to the person or entity acquiring
20 such stock or voting rights; and

21 (b) With respect to certified home health agencies, such change shall
22 not be subject to the public need assessment described in paragraph (a)
23 of subdivision two of section thirty-six hundred six of this article. In
24 the absence of such approval, the license or certificate of approval
25 shall be subject to revocation or suspension.

26 (c) No prior approval of the public health and health planning council
27 shall be required with respect to a transfer, assignment or disposition
28 of an interest or voting rights to any person previously approved by the
29 public health and health planning council, or its predecessor, for that
30 operator. However, no such transaction shall be effective unless at
31 least one hundred twenty days prior to the intended effective date ther-
32 eof, the partner or member completes and files with the public health
33 and health planning council notice on forms to be developed by the
34 public health and health planning council, which shall disclose such
35 information as may reasonably be necessary for the public health and
36 health planning council to determine whether it should bar the trans-
37 action. Such transaction will be final as of the intended effective date
38 unless, prior thereto, the public health and health planning council
39 shall state specific reasons for barring such transactions under this
40 paragraph and shall notify each party to the proposed transaction.

41 § 227. Section 4002 of the public health law is amended by adding a
42 new subdivision 4 to read as follows:

43 4. "Public health council" shall mean the public health and health
44 planning council.

45 § 227-a. Subdivisions 1 and 2 of section 4004 of the public health
46 law, as added by chapter 416 of the laws of 1983, is amended to read as
47 follows:

48 1. The commissioner shall not issue a certificate of approval to any
49 hospice except with the written approval of the public health and health
50 planning council. However, a hospice demonstration program participant
51 making application to the commissioner solely to establish a hospice
52 shall be deemed to have met such requirement.

53 2. An application for approval of the proposed hospice shall be filed
54 with the public health and health planning council together with such
55 other forms and information as shall be prescribed by, or acceptable to,
56 the public health and health planning council. Thereafter, the public

1 health and health planning council shall forward a copy of the proposed
2 application for establishment and accompanying documents to the [state
3 hospital review and planning council and the] health systems agency, if
4 any, having geographical jurisdiction of the area where the services of
5 the proposed hospice are to be offered. The public health and health
6 planning council shall act upon such application after the [state hospi-
7 tal review and planning council and the] health systems agency [have]
8 has had a reasonable time to submit [their] its recommendations. At the
9 time members of the public health and health planning council are noti-
10 fied that an application is scheduled for consideration, the applicant
11 and the health systems agency shall be so notified in writing. The
12 public health and health planning council shall not take any action
13 contrary to the advice of [either the state hospital review and planning
14 council or] the health systems agency until it affords to [either] the
15 health system agency an opportunity to request a public hearing and, if
16 so requested, a public hearing shall be held. If the public health and
17 health planning council proposes to disapprove the application, it shall
18 afford the applicant an opportunity to request a public hearing. The
19 public health and health planning council may hold a public hearing on
20 the application on its own motion. Any public hearing held pursuant to
21 this subdivision may be conducted by the public health and health plan-
22 ning council or by any individual designated by the public health and
23 health planning council. The public health and health planning council
24 shall not approve an application for establishment unless it is satis-
25 fied, insofar as applicable, as to (a) the public need for the existence
26 of the hospice at the time and place and under the circumstances
27 proposed; (b) the character, competence, and standing in the community,
28 of the proposed incorporators, directors, sponsors, stockholders or
29 operators; (c) the financial resources of the proposed hospice and its
30 sources of future revenues; and (d) such other matters as it shall deem
31 pertinent.

32 § 228. Subdivisions 2 and 3 of section 4006 of the public health law,
33 as added by chapter 416 of the laws of 1983, are amended to read as
34 follows:

35 2. An application for such construction shall be filed with the
36 department, together with such other forms and information as shall be
37 prescribed by, or acceptable to, the department. Thereafter the depart-
38 ment shall forward a copy of the application and accompanying documents
39 to the [state hospital review and] public health and health planning
40 council and the health systems agency, if any, having geographical
41 jurisdiction of the area where the hospice is located.

42 3. The commissioner shall not act upon an application for construction
43 unless (a) the applicant has obtained all approvals and consents
44 required by law for its incorporation or establishment (including the
45 approval of the public health and health planning council pursuant to
46 the provisions of this article) and until the [state hospital review
47 and] public health and health planning council and the health systems
48 agency concerned have had a reasonable time to submit their recommenda-
49 tions, and (b) the commissioner is satisfied as to the public need for
50 the construction, at the time and place and under the circumstances
51 proposed.

52 § 229. Paragraph (e) of section 201 of the business corporation law,
53 as added by chapter 669 of the laws of 1977, is amended to read as
54 follows:

55 (e) A corporation may not include as its purpose or among its purposes
56 the establishment or maintenance of a hospital or facility providing

1 health related services, as those terms are defined in article twenty-
2 eight of the public health law unless its certificate of incorporation
3 shall so state and such certificate shall have annexed thereto the
4 approval of the public health and health planning council.

5 § 230. Section 205-a of the county law, as added by chapter 873 of the
6 laws of 1976, is amended to read as follows:

7 § 205-a. Certain pilot projects. Any county operating a county hospi-
8 tal employing physicians and dentists pursuant to a pilot project
9 approved by the public health and health planning council, whereby such
10 physicians and dentists may receive fees for private professional
11 services rendered in accordance with section one hundred thirty of the
12 general municipal law in addition to the amount of remuneration fixed by
13 the respective county legislative bodies for regular services, shall be
14 required to adopt rules and regulations to govern such fees. Such rules
15 and regulations shall be subject to the approval of the public health
16 and health planning council.

17 § 231. Subdivision 1-a of section 250 of the county law, as added by
18 chapter 622 of the laws of 1984, is amended to read as follows:

19 1-a. For the purpose of (a) procuring by purchase, lease or other
20 means and installing water quality treatment units or devices, if
21 required; providing periodic testing and monitoring of raw and finished
22 water from private wells in the district; monitoring, modifying, repair-
23 ing, replacing, operation and maintenance, regenerating water quality
24 treatment units and devices and the administering of the treatment and
25 disposal of residuals generated in the operation of the district pursu-
26 ant to rules and regulations adopted by the public health and health
27 planning council under section two hundred twenty-five of the public
28 health law; (b) assisting local, state and federal agencies and offi-
29 cials in efforts to establish causes of, and implement remedial measures
30 to reduce water contamination and protect future water resources within
31 the district; (c) conduct public meetings and issue an annual public
32 report to members of the district on the operation, financial position
33 and water quality condition of said district; provided, however, that
34 with respect to any town in the county the board of supervisors shall
35 first determine that such district or service will not be established or
36 provided by such town.

37 § 232. Subdivision 1 of section 253 of the county law, as amended by
38 chapter 622 of the laws of 1984, is amended to read as follows:

39 1. A petition may be presented to the board of supervisors requesting
40 that a certain area or areas of the county be established as a county
41 district. Such petition shall be executed and acknowledged on behalf of
42 a municipality or district, any part of which is included within such
43 area or areas, by the chief executive officer of such municipality, or
44 of such district furnishing a similar service as the district to be
45 established hereunder. In lieu of execution of the petition by the chief
46 executive officer of such municipality or district, the petition may be
47 executed and acknowledged by at least twenty-five owners of taxable real
48 property of record situated within such municipality or district, or in
49 Suffolk county, if all of the taxable real property of record situate
50 within such municipality which is to be included within a certain area
51 or areas of the county to be established as a county district is owned
52 by one or more but less than twenty-five owners, then the petition may
53 be executed and acknowledged by one or more of said owners within the
54 area or areas to be established as a county district. Upon presentation
55 of such a petition or on its own motion, the board of supervisors may
56 direct the agency to cause maps and plans to be prepared for a project

1 as requested in the petition or for the establishment of a certain area
2 or areas of the county as a county district, provided, however, that if
3 the petitioning municipality, district or owners of taxable property
4 undertake to furnish or pay the cost of such maps and plans at its or
5 their cost and expense, the board of supervisors shall direct the agency
6 to accept or prepare the same. In the case of a petition to create or
7 extend a water quality treatment district, the petition may be executed
8 and acknowledged by one or more of the owners of taxable real property
9 of record situated within such municipality whose private well water is
10 contaminated. At the time the petition is executed and acknowledged,
11 notice and copy of such petition shall be submitted to the state depart-
12 ment of health. Such maps or plans shall show (1) the boundaries of the
13 area or areas which the agency in its judgment considers will be bene-
14 fited by the particular project, (2) a description of the area or areas
15 sufficient to permit definite and conclusive identification of all
16 parcels of property included therein, (3) the proposed location of all
17 facilities such as (a) reservoirs, stand pipes, wells, pumping stations,
18 water purification or treatment works, mains and hydrants, the source of
19 water supply, a description of the lands, streams, water or water rights
20 to be acquired and the mode of constructing the proposed water works,
21 (b) benefited parcels of properties with water quality treatment units
22 or devices installed prior to the formation of the district and/or those
23 properties requiring installation of water quality treatment units or
24 devices and the mode and frequency of testing, monitoring, modifying if
25 required, operation and maintenance, regenerating of such water quality
26 treatment units or devices and the administering of the treatment and
27 disposal of residuals and any other requirements pursuant to rules and
28 regulations adopted by the public health and health planning council
29 under section two hundred twenty-five of the public health law. Any
30 water quality treatment unit or device which has been installed prior to
31 the formation of the district must be approved pursuant to rules and
32 regulations adopted by the public health and health planning council
33 under section two hundred twenty-five of the public health law, prior to
34 acceptance of such unit or device and its benefited property within the
35 district, (c) trunk, interceptor and outfall sewers, pumping stations,
36 sewage treatment and disposal works, (d) properties requiring
37 construction or replacement of private on-site wastewater disposal
38 systems and the mode and frequency of conveying, treating and disposing
39 of wastewater and residual wastewater, (e) drains, ditches, channels,
40 pumping stations, dams, dikes, bulkheads and retaining walls, or (f)
41 refuse disposal and incinerator plants and all necessary appliances
42 appurtenant thereto, (4) estimates of the cost of construction, or
43 procurement and installation of the facilities, and/or in the case of
44 water quality treatment districts, estimates of the costs of monitoring,
45 testing, modifying, if required, operation and maintenance, regenerating
46 of such water quality treatment units or devices and the treatment and
47 disposal of residuals, as shown on the maps and plans and the method of
48 financing the same and (5) an evaluation of rehabilitation needs based
49 upon water quality, public use and private development, special wild-
50 life, scenic or other values, sedimentation, shoreland zoning, potential
51 for adequate pollution and erosion controls within the drainage basin,
52 and potential for future successful management. Such maps and plans
53 pertaining to sewer districts shall be consistent with, so far as possi-
54 ble, any comprehensive plan for sewers developed pursuant to section
55 17-1901 of the environmental conservation law. Such maps and plans
56 pertaining to water districts shall be consistent with, so far as possi-



1 ble, any comprehensive plan for public water supply systems developed
2 pursuant to title thirteen of article fifteen of the environmental
3 conservation law.

4 § 233. Paragraph b of subdivision 1 of section 483 of the general
5 business law, as added by section 3 of part B of chapter 58 of the laws
6 of 2006, is amended to read as follows:

7 b. Pursuant to section two hundred twenty-five of the public health
8 law, the public health and health planning council, subject to the
9 approval of the commissioner of health, is hereby authorized and
10 directed to prescribe such rules and regulations as may be necessary and
11 proper for the administration and enforcement of this article with
12 respect to radioactive material and radiation equipment. Such regu-
13 lations may require the posting of a bond or other security.

14 § 234. The second undesignated paragraph of section 135-b of the
15 general municipal law, as added by chapter 161 of the laws of 1922, is
16 amended to read as follows:

17 The chief medical officer of such public general hospital, tuberculo-
18 sis hospital or sanatorium shall have authority to employ one or more
19 occupational therapists to carry on the work of such department under
20 his supervision. The qualifications of occupational therapists so
21 employed shall be defined by the public health and health planning coun-
22 cil.

23 § 235. Paragraph 7 of subdivision (a) and subdivision (b) of section
24 7.05 of the mental hygiene law, paragraph 7 of subdivision (a) as
25 amended by chapter 725 of the laws of 1982 and as renumbered by chapter
26 410 of the laws of 2008 and subdivision (b) as added by chapter 724 of
27 the laws of 1982, are amended to read as follows:

28 7. the [two members] member of the [state hospital review and planning
29 council] public health and health planning council appointed by the
30 governor pursuant to subdivision (b) of this section.

31 (b) The chairman shall recommend [two members] one member of the coun-
32 cil for appointment by the governor to the [hospital review and planning
33 council] public health and health planning council pursuant to section
34 [twenty-nine hundred four] two hundred twenty of the public health law.

35 § 236. Subparagraph 1 of paragraph (a) of section 301 of the not-for-
36 profit corporation law, as amended by chapter 669 of the laws of 1977,
37 is amended to read as follows:

38 (1) Shall, unless the corporation is formed for charitable or reli-
39 gious purposes, or for purposes for which the approval of the commis-
40 sioner of social services or the public health and health planning coun-
41 cil is required, or is a bar association, contain the word
42 "corporation", "incorporated" or "limited" or an abbreviation of one of
43 such words; or, in the case of a foreign corporation, it shall, for use
44 in this state, add at the end of its name one of such words or an abbre-
45 viation thereof.

46 § 237. Paragraphs (o), (p) and (t) of section 404 of the not-for-pro-
47 fit corporation law, as amended by chapter 139 of the laws of 1993 and
48 as relettered by chapter 431 of the laws of 1993, are amended to read as
49 follows:

50 (o) Every certificate of incorporation which includes among its corpo-
51 rate purposes or powers the establishment or maintenance of any hospi-
52 tal, as defined in article twenty-eight of the public health law, or the
53 solicitation of contributions for any such purpose, or purposes, shall
54 have endorsed thereon or annexed thereto the approval of the public
55 health and health planning council.

1 (p) Every certificate of incorporation of a medical corporation as
2 defined in article forty-four of the public health law and organized
3 pursuant thereto and pursuant to this chapter, shall have endorsed there-
4 on or annexed thereto the consent of the commissioner of health and the
5 approval of the public health and health planning council.

6 (t) Every certificate of incorporation which includes among its
7 purposes and powers the establishment or maintenance of a hospital or
8 facility providing health related services, as those terms are defined
9 in article twenty-eight of the public health law, or the solicitation of
10 contributions for any such purpose or two or more of such purposes,
11 shall have endorsed thereon the approval of the public health and health
12 planning council.

13 § 238. Subdivision 4 of section 364 of the social services law, as
14 amended by chapter 474 of the laws of 1996, is amended to read as
15 follows:

16 4. The public health and health planning council shall be responsible
17 for establishing and maintaining qualifications for persons employed by
18 social services districts as professional directors.

19 § 239. Subdivision 2 of section 365-b of the social services law, as
20 amended by chapter 770 of the laws of 1977, is amended to read as
21 follows:

22 2. The commissioner of social services of each social services
23 district shall appoint a person, possessing the qualifications estab-
24 lished by the public health and health planning council and promulgated
25 by the department pursuant to section three hundred sixty-four of this
26 title, to serve on a full or part-time basis. Each professional direc-
27 tor shall serve under the general direction of the commissioner of
28 social services and shall have the responsibility for supervising the
29 program of medical assistance for needy persons in his social services
30 district, pursuant to the regulations of the department. The state
31 commissioner of health may authorize two or more social services
32 districts to appoint the same person to serve as professional director
33 in each of such districts.

34 § 240. Paragraphs (b), (c), (e) and (f) of subdivision 3 of section
35 461-1 of the social services law, as added by chapter 165 of the laws of
36 1991, are amended to read as follows:

37 (b) If the application for the proposed program includes an applica-
38 tion for licensure as a home care service agency, the department of
39 health shall forward the application for the proposed program and accom-
40 panying documents to the public health and health planning council for
41 its written approval in accordance with the provisions of section thir-
42 ty-six hundred five of the public health law.

43 (c) An application for an assisted living program shall not be
44 approved unless the commissioner is satisfied as to:

45 (i) the character, competence and standing in the community of the
46 operator of the adult care facility;

47 (ii) the financial responsibility of the operator of the adult care
48 facility;

49 (iii) that the buildings, equipment, staff, standards of care and
50 records of the adult care facility to be employed in the operation
51 comply with applicable law, rule and regulation;

52 (iv) the commissioner of health is satisfied that the licensed home
53 care agency has received the written approval of the public health and
54 health planning council as required by paragraph (b) of this subdivision
55 and the equipment, personnel, rules, standards of care, and home care
56 services provided by [a] the licensed home care agency and certified

1 home health agency or long term home health care program are fit and
2 adequate and will be provided in the manner required by article thirty-
3 six of the public health law and the rules and regulations thereunder;
4 and

5 (v) the commissioner and the commissioner of health are satisfied as
6 to the public need for the assisted living program.

7 (e) The commissioner of health shall provide written notice of
8 approval or disapproval of portions of the proposed application concern-
9 ing a licensed home care agency, certified home health agency or long
10 term home health care program, and, where applicable, of the approval or
11 disapproval of the public health and health planning council to the
12 commissioner. If an application receives all the necessary approvals,
13 the commissioner shall notify the applicant in writing. The commission-
14 er's written approval shall constitute authorization to operate an
15 assisted living program.

16 (f) No assisted living program may be operated without the written
17 approval of the department, the department of health and, where applica-
18 ble, the public health and health planning council.

19 § 241. Subdivision 21 of section 130 of the town law, as amended by
20 chapter 465 of the laws of 1955, is amended to read as follows:

21 21. House trailer camps, tourist camps and house trailers. Regulating
22 house trailer camps, tourist camps or similar establishments; requiring
23 approval of suitable plans for house trailer camps and tourist camps and
24 prescribing regulations therefor including provision for sewer
25 connection, water supply, toilets, bathing facilities, garbage removal,
26 registration of occupants, inspection of camps. The town board may
27 either adopt the provisions of the sanitary code established by the
28 public health and health planning council or may formulate other rules
29 and regulations relating to house trailer camps, tourist camps or simi-
30 lar establishments not inconsistent with the provisions of such state
31 sanitary code. Regulating the parking, storage or otherwise locating of
32 house trailers when used or occupied as living or sleeping quarters in
33 any part of the town outside an established house trailer camp, tourist
34 camp or similar establishment; providing time limits on duration of the
35 stay of such house trailers and requiring registration of such house
36 trailers when so used.

37 § 242. Subdivisions 1 and 2 of section 190-g of the town law, as added
38 by chapter 622 of the laws of 1984, is amended to read as follows:

39 1. The town board of any town is hereby authorized to establish or
40 extend a water quality treatment district, or more than one such
41 district, for the purposes of (a) procuring by purchase, lease or other
42 means, and installing water quality treatment units or devices, if
43 required; providing periodic testing and monitoring of raw and finished
44 water from private wells in the district; monitoring, modifying, repair-
45 ing, replacing, operation and maintenance, regenerating water quality
46 treatment units and devices and the administering of the treatment and
47 disposal of residuals generated in the operation of the district pursu-
48 ant to rules and regulations adopted by the public health and health
49 planning council under section two hundred twenty-five of the public
50 health law; (b) assisting local, state and federal agencies and offi-
51 cials in efforts to establish causes of, and implement remedial measures
52 to reduce, water contamination and protect future water resources within
53 the district; (c) conduct public meetings and issue an annual public
54 report to members of the district on the operation, financial position
55 and water quality condition of said district.



1 2. A water quality treatment district established hereunder may
2 consist of noncontiguous or contiguous benefited parcels of property and
3 shall be created by a resolution of the town board, upon petition after
4 a public hearing. The petition may be executed and acknowledged by one
5 or more of the owners of taxable real property of record situated within
6 the town whose private well water is contaminated and at the time the
7 petition is executed and acknowledged, notice and copy of such petition
8 shall be submitted to the state department of health. Upon a petition
9 signed and acknowledged the town board may, or on its own motion, after
10 a public hearing, assemble data relating to the number and location of
11 private wells within the town, the contaminants present in the water
12 supply in such town's private wells, (for the purposes of this section,
13 "contaminants" shall mean those substances found in amounts or concen-
14 trations which violate federal, state or local laws, guidelines or rules
15 and regulations relating to drinking water or which may pose a risk to
16 public health), the extent of contamination of the water supply in the
17 town's private wells, and the availability of appropriate treatment
18 technologies for the contaminants found to be present, or which are
19 reasonably expected to be found, currently or in the future, in the
20 water supply in the town's private wells. Upon presentation of the peti-
21 tion or on its own motion, the town board may direct or cause maps and
22 plans to be prepared, provided however, that if the owner or owners of
23 taxable real property undertake to furnish or pay the cost of such maps
24 and plans at his or their cost and expense, the town board shall accept
25 or prepare the same or the town board may adopt a resolution, subject to
26 a permissive referendum, appropriating a specific amount to pay the cost
27 of preparing a general map and plan for providing water quality treat-
28 ment units or devices and related services. The town board may determine
29 that such maps and plans shall be prepared by or under the supervision
30 of town officers and employees to be designated by the town board, or by
31 persons to be employed for that purpose, or the town board may contract
32 for the preparation thereof, within the limitations of the amount appro-
33 priated. Except as otherwise provided herein, the expense incurred for
34 the preparation of such maps and plans shall be a town charge, and shall
35 be assessed, levied and collected in the same manner as other town
36 charges. If the town board shall thereafter establish or extend a water
37 quality treatment district, the expense incurred by the town for the
38 preparation of the maps and plans therefor shall be deemed to be part of
39 the cost of such improvement, and the town shall be reimbursed the
40 amount paid therefor, or such portion of that amount which the town
41 board, at the public hearing held pursuant to section one hundred nine-
42 ty-four of this chapter, shall allocate against such district. Nothing
43 in this section contained, or in any other section of this act, shall be
44 construed to prevent the financing, in whole or in part, of expenditures
45 by private sources, grants or by other means. All such maps and plans
46 shall be filed with the town clerk. Such maps and plans shall show (1)
47 the location of all benefited parcels of properties with water quality
48 treatment units or devices installed prior to the formation of the
49 district and/or those properties requiring installation of water quality
50 treatment units or devices and the mode and frequency of testing, moni-
51 toring, modifying if required, operation and maintenance, regenerating
52 of such water quality treatment units or devices and the administering
53 of the treatment and disposal of residuals and any other requirements
54 pursuant to rules and regulations adopted by the public health and
55 health planning council under section two hundred twenty-five of the
56 public health law, and (2) estimates of the costs of procurement,



1 installation, monitoring, testing, modifying, if required, operation and
2 maintenance, regenerating of such water quality treatment units or
3 devices and the treatment and disposal of residuals, and the method of
4 financing the same. Any water quality treatment unit or device which has
5 been installed prior to the formation of the district must be approved
6 pursuant to rules and regulations adopted by the public health and
7 health planning council under section two hundred twenty-five of the
8 public health law, prior to acceptance of such unit or device and its
9 benefited property within the district.

10 § 243. Subdivision 3 of section 13-b of the workers' compensation law,
11 as amended by chapter 1068 of the laws of 1960, is amended to read as
12 follows:

13 3. Laboratories and bureaus engaged in x-ray diagnosis or treatment or
14 in physiotherapy or other therapeutic procedures and which participate
15 in the diagnosis or treatment of injured workmen under this chapter
16 shall be operated or supervised by qualified physicians duly authorized
17 under this chapter and shall be subject to the provisions of section
18 thirteen-c of this [chapter] article. The person in charge of diagnos-
19 tic clinical laboratories duly authorized under this chapter shall
20 possess the qualifications established by the public health and health
21 planning council for approval by the state commissioner of health or, in
22 the city of New York, the qualifications approved by the board of health
23 of said city and shall maintain the standards of work required for such
24 approval.

25 § 244. This act shall take effect immediately, provided that:

26 a. section twenty-two of this act shall be deemed to have been in full
27 force and effect on the same date as chapter 299 of the laws of 2008
28 took effect; and provided further that the amendments to section 554 of
29 the executive law made by section twenty-two of this act shall not
30 affect the expiration of such section and shall expire therewith;

31 b. sections thirty-three and thirty-four of this act shall take effect
32 April 1, 2013;

33 c. the amendments to subdivision 10 of section 3615 of the public
34 health law made by section fifty-three of this act shall not affect the
35 expiration of such section and shall expire therewith;

36 d. the amendments to subdivision 1 of section 210 of the elder law
37 made by section one hundred ninety-eight-a of this act shall take effect
38 on the first of September next succeeding the date on which it shall
39 have become a law;

40 e. the amendments to paragraph (a) of subdivision 2 of section 2802-a
41 of the public health law made by section two hundred eighteen of this
42 act shall not affect the repeal of such section and shall be deemed
43 repealed therewith; and

44 f. sections one hundred ninety-nine through two hundred forty-three of
45 this act shall take effect December 1, 2010, provided however, that the
46 public health and health planning council shall be authorized to
47 complete action on any application, regulation, complaint or other
48 matter under consideration by the public health council or state hospi-
49 tal review and planning council on such effective date; and provided
50 further that any final approval granted or regulation adopted by the
51 public health council or state hospital review and planning council
52 shall remain in effect according to its terms after the effective date
53 of this act, unless otherwise lawfully annulled, revoked, modified,
54 amended, limited or suspended.